

TITLE 6. ECONOMIC SECURITY

**CHAPTER 4. DEPARTMENT OF ECONOMIC SECURITY
REHABILITATION SERVICES**

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Editor's Note: The Section headings for R6-4-601 through R6-4-608 were inadvertently changed to "Expired" in Supp. 04-1. The correct headings have been restored (Supp. 04-2).

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Article 7, consisting of R6-4-701 through R6-4-707, expired under A.R.S. § 41-1056(E) at 10 A.A.R. 1165, effective October 31, 2003 (Supp. 04-1).

Section	
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ARTICLE 8. EXPIRED

Article 8, consisting of R6-4-801, expired under A.R.S. § 41-1056(E) at 10 A.A.R. 1165, effective October 31, 2003 (Supp. 04-1).

Section	
R6-4-801.	Expired

ARTICLE 1. STATE AGENCY ADMINISTRATION

R6-4-101. Expired

Historical Note

Adopted effective June 14, 1977 (Supp. 77-3). Section expired under A.R.S. § 41-1056(E) at 10 A.A.R. 1165, effective October 31, 2003 (Supp. 04-1).

R6-4-102. Expired

Historical Note

Adopted effective June 14, 1977 (Supp. 77-3). Section expired under A.R.S. § 41-1056(E) at 10 A.A.R. 1165, effective October 31, 2003 (Supp. 04-1).

R6-4-103. Expired

Historical Note

Adopted effective June 14, 1977 (Supp. 77-3). Section expired under A.R.S. § 41-1056(E) at 10 A.A.R. 1165, effective October 31, 2003 (Supp. 04-1).

R6-4-104. Definitions

- A. "Act." P.L. 93-112, Rehabilitation Act of 1973, as amended.
- B. "Client." Any individual receiving any services from Vocational Rehabilitation.

- C. “Consultant.” Unless stated otherwise, the consultant is the individual hired by the agency for the purpose of providing consultation.
- D. “Counselor.” Unless stated otherwise, the counselor is the Vocational Rehabilitation counselor.
- E. “Department.” Unless stated otherwise, the Department is the Department of Economic Security.
- F. “Eligible client.” Is any individual:
 1. Who has a physical or mental disability which for such individual constitutes or results in a substantial handicap to employment; and
 2. Who can reasonably be expected to benefit in terms of employability from the provision of VR services or for whom an extended evaluation of rehabilitation potential is necessary for the purpose of determining whether he might reasonably be expected to benefit in terms of employability from the provision of VR services; and
 3. Who has been so certified by a Vocational Rehabilitation counselor.
- G. “Individualized Written Rehabilitation Program (IWRP).” An IWRP is a written program of services developed jointly by the Vocational Rehabilitation counselor and the client who has been determined eligible to receive services. It is a comprehensive document including purposes, goals, responsibilities, services criteria and understandings.
- H. “Rehabilitation Services Bureau (RSB).” Is the organizational unit within DES responsible for the operation of the general Vocational Rehabilitation program, rehabilitation programs for the blind and the Disability Certification program.
- I. “State plan.” The approved plan for VR services and for innovative and expansion grant projects agreeing to administer such in accordance with all applicable regulations, policies and procedures established by the Secretary as a condition to receipt of federal funds under Title I of the Rehabilitation Act of 1973, as amended.
- g. Services to members of a handicapped individual’s family necessary to the adjustment or rehabilitation of the handicapped individual;
- h. Interpreter services for the deaf;
- i. Reader services, rehabilitation teaching services, and orientation and mobility services for the blind;
- j. Telecommunications, sensory and other technological aids and devices;
- k. Placement in suitable employment;
- l. Post-employment services necessary to assist handicapped individuals to maintain suitable employment;
- m. Occupational licenses, tools, equipment and initial stocks (including livestock) and supplies; and
- n. Other goods and services which can reasonably be expected to benefit a handicapped individual in terms of his employability.
- B. Vocational Rehabilitation services shall be provided only by Vocational Rehabilitation personnel and only to clients determined eligible for such services by Vocational Rehabilitation personnel.
- C. The expenditure of client service funds shall be initiated and authorized only by Vocational Rehabilitation personnel.

Historical Note

Adopted effective June 14, 1977 (Supp. 77-3).

R6-4-202. Eligibility, ineligibility, and certification

- A. Eligibility is based only on the presence of a physical or mental disability which for the individual constitutes or results in a substantial handicap to employment, and a reasonable expectation that vocational rehabilitation services may benefit the individual in terms of employability.
- B. Eligibility requirements will be applied without regard to sex, race, age, creed, color or national origin. No group of individuals will be excluded or found ineligible solely on the basis of type of disability. No upper or lower age limit will be established which will, of itself, result in a finding of ineligibility for any individual who otherwise meets the basic eligibility requirements.
- C. No residence requirement, durational or other, is imposed which excludes from services any individual who is in the state.
- D. An individual who has been declared eligible for VR services in another state may or may not be eligible for services in this state, and the Arizona VR counselor must redetermine eligibility.
- E. Any individual referred to VR who freely decides not to apply for services or who indicates expressly or by action that he is not interested in pursuing an application for VR services may be screened out without initiating a case file. A record of such action shall be kept in each local office for at least 12 months.
- F. The application for VR services shall be a formal declaration by the handicapped individual that he is requesting the assistance of Vocational Rehabilitation agency and its involvement in his rehabilitation effort. Such an application implies that the applicant has a basic understanding of the eligibility requirements, knowledge of the kind of services the agency provides, a desire to undertake a rehabilitation program and understanding of both his and the agency’s obligations and responsibilities.
- G. Any individual who has reached the age of 18, or is married, or is in the armed forces, or is living away from home and is self-supporting or who has not had a guardian appointed for him is regarded as an adult and may sign his own application and any other VR documents requiring client signatures. Parent or guardian co-signatures are otherwise required.

Historical Note

Adopted effective June 14, 1977 (Supp. 77-3).

R6-4-105. Expired

Historical Note

Adopted effective June 14, 1977 (Supp. 77-3). Section expired under A.R.S. § 41-1056(E) at 10 A.A.R. 1165, effective October 31, 2003 (Supp. 04-1).

R6-4-106. Expired

Historical Note

Adopted effective June 14, 1977 (Supp. 77-3). Section expired under A.R.S. § 41-1056(E) at 10 A.A.R. 1165, effective October 31, 2003 (Supp. 04-1).

ARTICLE 2. PROVISION OF SERVICES TO INDIVIDUALS

This Article contains the rules that pertain to the provision of services to individuals under the state/federal Vocational Rehabilitation program.

R6-4-201. General considerations

- A. Scope of Vocational Rehabilitation services to individuals.
 1. As appropriate, the following VR services, as described in 45 CFR 401.40(a) will be available to individuals:
 - a. Evaluation of rehabilitation potential;
 - b. Counseling, guidance and referral;
 - c. Physical and mental restoration services;
 - d. Vocational and other training services;
 - e. Maintenance;
 - f. Transportation;

- H.** In each instance, there shall be a certification, dated and signed by a VR counselor as to eligibility or ineligibility for services or for an extended evaluation. The certification that the individual has met the eligibility requirements shall be made prior to or simultaneously with acceptance of a handicapped individual for VR services. The certification for extended evaluation and the certification of ineligibility shall be issued pursuant to the requirements of 45 CFR 401.37(b) and (c) respectively.
- I.** An individual determined to be rehabilitated will have been, as a minimum:
- Determined to be eligible;
 - Provided an evaluation of rehabilitation potential and counseling and guidance, as essential VR services;
 - Provided appropriate VR services in accordance with the individualized written program;
 - Determined to have achieved suitable employment which has been maintained for at least 60 days.
2. Post-employment services will be provided to those individuals determined to be rehabilitated who require such services to the extent necessary to maintain suitable employment.

Historical Note

Adopted effective June 14, 1977 (Supp. 77-3).

R6-4-203. Diagnostic study**A.** Preliminary diagnostic study.

- In order to determine whether any individual is eligible for vocational rehabilitation services, there shall be a preliminary diagnostic study sufficient to determine:
 - Whether the individual has a physical or mental disability which for such individual constitutes or results in a substantial handicap to employment, and
 - Whether VR services may reasonably be expected to benefit the individual in terms of employability or whether an extended evaluation of rehabilitation potential is necessary to make such a determination. It will place primary emphasis upon the determination of a vocational goal for the individual and his potential for achieving such a goal.
- Information required for preliminary diagnostic study:
 - Each applicant shall have documented in the file a complete medical assessment in order to appraise current general health status. The general medical assessment will include a medical history, thorough physical examination and a routine urinalysis. The decision as to what is current is determined on an individual basis.
 - Examinations and diagnostic studies necessary for the agency to determine whether the individual has a physical or mental disability which for such individual constitutes or results in a substantial handicap to employment.
 - In all cases of mental or emotional disorders, an examination will be provided by a physician or by a certified psychologist skilled in diagnosis and treatment of such disorders.
 - In cases of alcoholism and drug addiction, evidence from such sources as hospital records, a physician's report, a social summary or treatment facility, records will be necessary to document the existence of these disabilities.

B. Thorough diagnostic study.

- Before implementation of an IWRP for a client, a thorough diagnostic study shall be completed, to include:

- As appropriate, a comprehensive evaluation of pertinent medical, psychological, vocational, educational and other related factors such as personal, vocational and social adjustment, patterns of work behavior, ability to acquire job skills and capacity for successful job performance which bear on the individual's handicap to employment and scope of rehabilitation services needed. The findings of such study(s) must be recorded in client's individual case folders.
- In all cases of visual impairment, an evaluation of visual loss will be provided by a physician skilled in diseases of the eye or by an optometrist, whichever the individual may select.
- In all cases of blindness, a screening for hearing loss will be obtained from a physician skilled in the diseases of the ear or from an audiologist licensed or certified in accordance with state laws and regulations.
- In all cases of hearing impairment, an evaluation of the auditory system will be obtained from a physician skilled in the diseases of the ear and based on his findings a hearing evaluation may be provided by such a physician or by a licensed audiologist.
- In all cases of deafness, an evaluation of the individual's vision will be provided by a physician skilled in the diseases of the eye or by an optometrist.
- In all cases of mental retardation, a psychological evaluation will be obtained from a psychologist certified by the Arizona State Board of Psychologist Examiners which will include a valid test of intelligence, an assessment of social functioning and educational progress and achievement.
- In all cases where drug addiction or alcoholism are documented as disabilities, evaluation by a certified psychologist or psychiatrist skilled in the diagnosis and treatment of mental or emotional disorders must be obtained.

C. The client shall be offered and given the choice of physicians, psychologists or providers of diagnostic services in all cases with the following restrictions:

- The counselor, in consultation with medical/psychological and other appropriate consultants and within the limits set by law and described in these regulations, determines both the scope and type of studies and evaluations to be acquired;
- The individuals chosen to do the necessary diagnostic studies and evaluations must have the minimum qualifications set forth in law and described elsewhere in these rules and regulations (see Section R6-4-302);
- If the agency has contracted with someone or some group to provide specific diagnostic studies or evaluations, their services must be utilized unless special considerations noted in the file deem it inappropriate to do so;
- The individuals chosen to do the necessary diagnostic studies and evaluations must also be willing and able to conform to set fee schedules and reporting requirements.

Historical Note

Adopted effective June 14, 1977 (Supp. 77-3).

R6-4-204. Extended evaluation

- A.** An extended evaluation is used for those individuals for whom the presence of a disability which constitutes a substantial handicap for employment has been documented but for whom the counselor is unable to make a determination that services might benefit the individual in terms of employability without an extended evaluation to determine rehabilitation potential.

- B. The full range of VR services will be provided under an IWRP during extended evaluation but for no longer than 18 months and in conformity with 45 CFR 401.36(b) and (c). The individual's progress will be thoroughly assessed as frequently as necessary but at least once every 90 days while services are provided. Periodic reports from those providing services will be considered in this assessment. The extended evaluation will be terminated in accordance with 45 CFR 401.36(e).

Historical Note

Adopted effective June 14, 1977 (Supp. 77-3).

R6-4-205. Individualized written rehabilitation program

- A. An individualized written rehabilitation program will be initiated and continuously developed for each handicapped individual eligible for VR services and each handicapped individual being provided such services under an extended evaluation. All VR services will be provided in accordance with such a program. This program will be developed jointly by the VR counselor and the handicapped individual (or, as appropriate, his parent, guardian or other representative). It will emphasize primarily the determination and achievement of a vocational goal. A copy of the written program, and any amendments thereto, will be provided to the handicapped individual, or as appropriate, his parent, guardian, or other representative.
- B. The program shall be initiated after certification of eligibility or certification for extended evaluation. The program will include at least the information described in 45 CFR 401.39(c), as appropriate. The program will be reviewed at least annually, at which time the individual (or, as appropriate, the parent, guardian or other representative) will be afforded opportunity to review the program and if necessary redevelop its terms jointly with the appropriate state agency staff member. When services are to be terminated on the basis of a determination that the individual cannot achieve a vocational goal, the conditions set forth in 45 CFR 401.39(e)(1) and (2) will be met. There will be at least an annual review of the ineligibility decision, in which the individual will be given opportunity for full consultation.

Historical Note

Adopted effective June 14, 1977 (Supp. 77-3).

R6-4-206. Provision of VR services

- A. Scope and general considerations.
1. Rehabilitation Services Bureau provides all those services included under scope of services outlined in R6-4-201(A) and for which federal government provides financial participation.
 2. No VR services shall be provided to VR personnel or their families without prior review and approval of District VR Program Manager and the Chief of Rehabilitation Services Bureau. All such actions shall also be reviewed by Department of Economic Security administration.
 3. Cases and case facts, including the Individualized Written Rehabilitation program, shall be subject to review by VR administrative and consultative personnel.
- B. Restoration services.
1. Physical or mental restorative services shall be provided only by individuals specially qualified to provide such services. The agency has established provider standards which are on file with Rehabilitation Services Bureau and available for review to the public on request.
 2. Any IWRP, Program of Services, which proposes to provide physical or mental restorative services in excess of \$5,000 shall be submitted for review and approval by the

District VR Program Manager and consultants, as appropriate.

3. Restorative procedures that might be considered investigative, controversial or of high risk to the client shall be subject to approval by Rehabilitation Services Bureau administration.
 4. A course of physical or mental restoration shall not extend beyond three months without an assessment of documented progress made towards stated goals. Authorization for additional physical or mental restoration shall be predicated upon acceptable progress to date, and the setting of treatment goals for any subsequent course of therapy.
 5. Authorization for inpatient care at any hospital, rehabilitation center, skilled nursing facility or any other institutions whose primary function it is to provide medical or allied services shall be for a specified period of time. A comprehensive assessment of progress to date and a statement of justification by the treating physician will be required for any extension exceeding 30 days.
 6. Chronic conditions; e.g., diabetes, epilepsy, which were diagnosed and placed on an effective medical regime before an individual becomes a client shall not become the responsibility of VR. The counselor shall not pay for his ongoing health maintenance costs.
- C. Training services.
1. Training services shall be provided to prepare an eligible individual with the necessary skills for employment consistent with the rehabilitation goal.
 2. All training, including OJT's, purchased from private schools or individuals shall be provided under a contract signed by the VR counselor and the trainer or representative of the training institution.
 3. Training services will be provided to prepare a client for placement at entry level requirements. In the case of higher education, VR will normally conclude sponsorship of training with completion of a bachelor's degree. Consideration will be given to the special needs of a severely disabled individual who may require post-graduate training due to an inability to work at entry level.
 4. The VR client shall be given his choice of properly licensed private, technical, business and vocational training schools. The counselor, however, shall also consider:
 - a. Relative costs of training;
 - b. Transportation;
 - c. Living arrangements;
 - d. Other factors bearing on the particular client situation.
 5. VR shall not pay non-resident fees to out-of-state schools if the same training programs are available within the state.
 6. VR may pay non-resident fees to a local school if required and necessary to carry out an IWRP, Program of Services.
 7. Training at private, business, technical and vocational schools shall be paid for on a month-to-month basis after the service has been provided. Encumbrances shall be written prior to the provision of training. If a client withdraws from training prior to completion, VR shall pay only for that portion of the training utilized by the client on a prorated basis.
 8. On-the-job training shall be that training purchased under contract from an employer who provides the individual training on the job site. Such arrangements may result in an employer/employee relationship subject to wage and hour laws under the Fair Labor Standards Act.

9. OJT contracts shall be written only in those instances where the client does not meet the entry and/or production requirements for that job without a period of on-the-job training or unless a period of on-the-job training is necessary to provide an employment opportunity for the individual.
 10. OJT contracts shall be written only for those occupations in which the client, upon successful completion of the on-the-job training, can reasonably be expected to become employed. OJT contracts shall not be written for:
 - a. Occupations in which commissions provide more than 50% of client's salary;
 - b. Intermittent seasonal occupations;
 - c. Occupations which require licenses such as therapists, teachers, barbers, cosmetologists, nurses, etc.
 11. Workmen's Compensation Insurance shall be provided by VR for the duration of an OJT contract unless such coverage is provided by the employer.
 12. Wages to be paid the client upon successful completion of an OJT contract shall be comparable to wages of other employees engaged in similar work and at the same production level.
 13. An employer may not have more than 25% of his labor force under OJT contracts. If an employer has fewer than four employees, he may be given one OJT contract if he demonstrates the capability of providing the necessary training.
 14. Payment to the employer under an OJT contract shall never be in excess of 50% of client's wages averaged over the length of the contract.
 15. All training and adjustment services shall be provided under established standards (see R6-4-302(A) and (B)).
- D. Maintenance.**
1. Maintenance means payments, not exceeding the estimated cost of subsistence and provided at any time from the date of initiation of vocational rehabilitation services through the provision of post-employment services, to cover a handicapped individual's basic living expenses, such as food, shelter, clothing and other subsistence expenses. Maintenance is provided only in order to enable a handicapped individual to derive the benefit of other vocational rehabilitation services being provided.
 2. General considerations.
 - a. Vocational Rehabilitation is not legally obligated to meet the total costs of living for its clients nor does the budget provide funds to do so. Because of these limitations, maintenance payments are provided only to assist the client with expenses essential to services listed in the client's individualized written rehabilitation program and approved in advance by the Vocational Rehabilitation in an IWRP, Program of Services, except for those maintenance payments necessary to complete diagnostic services.
 - b. Maintenance may not be paid out of SSI/SSDI special funds unless it is to defray extra costs of client living away from home because of participation in a rehabilitation program. If a counselor decides to pay regular maintenance for a client eligible for special funds, but not eligible for maintenance under those funds, maintenance must be paid for out of regular funds and are subject to all regulations set forth in this subsection.
 - c. Maintenance checks may be paid directly to the client, to the training agent or to parents or guardian or other representative.
 - d. The counselor must monthly review, adjust, as appropriate, and authorize the disbursement of maintenance checks.
 - e. The combined total of maintenance plus the client's income will never exceed client's actual client monthly obligations.
 - f. Maintenance for a client who must live on campus, in a rehabilitation facility, halfway house, or boarding home may be paid to the college, school or facility directly either for only that portion of maintenance to include room and board or for distribution of total maintenance.
 - g. Maintenance may not be provided for clients pursuing academic college level training as a part-time student, as defined by the school, except in the case of an extended evaluation to determine rehabilitation potential and then only after prior supervisory review.
 - h. Maintenance may never be provided for the sole purpose of meeting total costs of subsistence for clients or to supplement other resource (AD, SSDI, etc.) deficiencies.
 - i. Unusual client circumstances may call for an administrative adjustment by the District VR Program Manager in the rates set on a case-by-case basis.
 3. Provision of maintenance.
 - a. No economic need criteria apply to maintenance provided while client is receiving diagnostic services regardless of status. Maintenance in this case is only that money necessary to defray costs to client during a period away from the home. The amount of maintenance may never exceed the actual costs incurred by the client as a result of participating in the diagnostic study.
 - b. Maintenance as ongoing payments during an IWRP will never, together with client income, exceed established client monthly obligations.
 - i. All liquid assets must be used first.
 - ii. Once liquid assets have been used, the following procedure is used:
 - (1) If client does not meet the economic need criteria, no maintenance may be provided. When the client does meet the economic need criteria, the counselor must complete the Financial Disclosure Statement and compare client's total income to client's monthly obligations;
 - (2) The counselor may provide maintenance payments necessary to assist client with expenses essential to accomplishing the services listed in the client's IWRP up to documented need; i.e., monthly obligations, but never to exceed the maximum allowed.
 - c. Maintenance payments above the basic rate may be approved by the supervisor when they are provided to meet special client needs which are ongoing but not normally considered as usual subsistence requirements. Such special needs may include special diet, ongoing repair and maintenance of assistive devices, ongoing need for medical supplies such as stump socks, catheters, etc. These needs must be documented and explained on the client's IWRP.
 4. A counselor may pay for a client's attendant care only as necessary while client is engaged in a program of services. Financial need criteria as well as the need to

explore and use similar benefits, if available, apply. Vocational Rehabilitation does not accept responsibility for total costs of attendant care. Vocational Rehabilitation will pay for such care within the following guidelines:

- a. The client must have a doctor's statement regarding the need for and extent of attendant care required.
 - b. For the purpose of computing the amount of Vocational Rehabilitation's contribution, a distinction is made between:
 - i. Training or training-related costs, such as preparation for school, transportation to and from school, assistance while in school.
 - ii. Attendant care not directly related to a specific rehabilitation activity but necessary for health maintenance. Such care can and is often provided by family or friends and should not be paid for by Vocational Rehabilitation unless absolutely necessary, and unless it is a direct cost item to the client.
 - c. Hourly minimum wage shall be paid to attendants; however, Rehabilitation Services Bureau will not contribute more than \$150 monthly for each type of attendant care.
- E. Transportation.** In providing transportation monies to the VR client, the following rules shall be applied:
1. Client may only be reimbursed for actual costs for transportation and per diem.
 2. The counselor shall determine the most economical, yet adequate, mode of transportation available to client.
 3. The maximum allowed per diem shall never be more than \$30 a day.
- F. Other services.**
1. The VR counselor shall not purchase for a client automobiles, trucks or any other self-powered vehicles which require licensing by the state. Included in this prohibition is purchasing or contributing to the cost of those accessories or optional equipment normally available by or through automobile manufacturers or dealers in the purchase of a new vehicle.
 2. The VR counselor may purchase assistive devices and modifications designed to allow a handicapped individual to use or operate a vehicle either for a new or used vehicle.
 3. The VR counselor may purchase or contribute to the purchase, accessories or optional equipment as well as assistive devices and modifications to used or previously purchased vehicles when such are medically prescribed.

Historical Note

Adopted effective June 14, 1977 (Supp. 77-3).

ARTICLE 3. BUSINESS ENTERPRISE PROGRAM

R6-4-301. Definitions

In this Article the following definitions apply unless the context otherwise requires:

1. "Abandoned facility" means a business facility where a BEP operator has failed to open the facility without good cause for 24 hours.
2. "Agreement for operation of a vending facility" or "operator's agreement" means the written contract between the Department of Economic Security and a business enterprise program operator that regulates the terms and conditions under which the business enterprise shall be managed.
3. "Arizona Participating Operators Committee" or "APOC" means a fully representative committee of blind operators elected biennially by their peers which func-

tions as an integral part of the Business Enterprise Program having active participation in major BEP administrative decisions and policy and program development decisions affecting the overall administration of the state's vending facility program.

4. "Business Enterprise Program" or "BEP" means an organizational unit of the Rehabilitation Services Administration within the Department of Economic Security which is the state licensing agency that provides opportunities for legally blind persons to operate merchandising business facilities in public and other property.
5. "Business Enterprise Program operator" or "BEP operator" means a licensee who enters into an operator's agreement with the BEP to manage and operate a business facility.
6. "Business facility" means a particular place of merchandising identified by the BEP which provides an opportunity to operate a vending facility.
7. "Candidate" means a legally blind client receiving vocational rehabilitation services who is referred to the BEP by a vocational rehabilitation counselor for training and placement.
8. "Certified trainee" means a legally blind client of the Vocational Rehabilitation Program who has successfully completed training and has been certified by the BEP.
9. "Department" means the Arizona Department of Economic Security.
10. "Displaced operator" means a licensee who has operated a business facility in Arizona under the provisions of this Article and is not currently assigned to a business facility as a result of a facility or building closure or medical leave.
11. "Grantor" means the agency that grants a permit to, or enters into an agreement with, the BEP to provide a satisfactory site for the operation of a business facility.
12. "Guaranteed fair minimum of return" means the prevailing federal minimum wage multiplied by a 40-hour work week.
13. "Initial probation" means the first six months after an operator assumes management of his first business facility or a higher level business facility during which time the operator's performance is evaluated for permanent status, termination or performance probation.
14. "Legally blind person" means a person who, after examination by an ophthalmologist, has been determined to have no vision or acuity or has a central visual acuity of 20/200 or less in the better eye, with the best correction by single magnification, or who has a field defect in which the peripheral field has been contracted to such extent that the widest diameter of visual field subtends an angular distance no greater than 20 degrees.
15. "Licensee" means a legally blind person who has been licensed by the Department to operate a business facility.
16. "Net proceeds" means the amount remaining after the deduction of business expenses from all income accruing to a BEP operator from the operation of a vending facility.
17. "Performance probation" means a period of time not exceeding six months during which a business facility operator who is not on initial probation shall correct documented, unacceptable performance or deficiencies upon written notice by the BEP.
18. "Rehabilitation Services Administration" or "RSA" means the organizational unit within the Department which is responsible for the administration of the Voca-

tional Rehabilitation Program for the Blind and Visually Impaired.

19. “Temporary Business Enterprise Program operator” or “temporary operator” means an individual who contracts with the Department to operate a business facility for a specified period of time and who may or may not be a legally blind person.
20. “Trainee” means a candidate who has been accepted into and is receiving training from the BEP prior to placement and licensure.
21. “Upward mobility training” means additional training that enhances a BEP operator’s work opportunities.
22. “Vending facility” means automatic vending machines, cafeterias, snack bars, cart service, shelters, counters, and such other appropriate auxiliary equipment which may be operated by blind licensees, and which is necessary for the sale of newspapers, periodicals, confections, tobacco products, food, beverages, and other articles or services dispensed automatically or manually and prepared on or off the premises in accordance with all applicable health laws, and including the vending or exchange of chances for any lottery authorized by state law and conducted by an agency of a state within such state.
23. “Vocational rehabilitation counselor” or “counselor” means the person in the Vocational Rehabilitation Program (VR) who determines the appropriateness of its clients for referral to the BEP.

Historical Note

Former Section R6-4-301 renumbered to R6-4-401, new R6-4-301 adopted effective May 7, 1990 (Supp. 90-2).

R6-4-302. Participating business facilities

- A. The Business Enterprise Program (BEP) shall conduct surveys of public or other properties upon written request of the owner or management or as determined necessary by the Department to determine merchandising opportunities for licensees. The survey shall include the following information:
 1. Identification of location and nature of site and contact person.
 2. Demographics of site to include building population, work hours, nature of work, salary range, and locally, other selling locations, existing merchandise and vending machines.
 3. The proposed business recommended by BEP, including suggested merchandise, number of employees, anticipated volume, hours of operation and current purchasing patterns.
- B. The BEP shall, following consultation with APOC, determine through these surveys if a public or other property meets the requirements for a satisfactory site for a merchandising business.
- C. If a surveyed property meets the requirements as a satisfactory site for a merchandising business, a written agreement shall be entered into between the Department and the grantor.
- D. The BEP shall provide each business facility with suitable equipment, adequate initial stock, utensils, and cash necessary for the establishment and operation of the facility. The operator shall return the equipment, stock, utensils and cash upon surrender of the facility.
- E. Unless otherwise agreed, the BEP shall maintain all business facility equipment in good repair and shall replace worn-out or obsolete equipment to assure the continued operation of the facility.
- F. Title to the BEP-purchased equipment and stock shall remain with the BEP until disposed of in accordance with law. When title to the equipment and stock is vested in the BEP operator,

procedures and responsibility for providing the necessary maintenance or replacement shall be prescribed by the BEP in the operator’s agreement.

Historical Note

Former Section R6-4-302 renumbered to R6-4-402, new R6-4-302 adopted effective May 7, 1990 (Supp. 90-2).

R6-4-303. Referral for the business enterprise program; qualifications of candidate

- A. A client of the Department’s Vocational Rehabilitation Program who expresses interest in participating in the BEP program shall be referred to the BEP by a vocational rehabilitation counselor when it is determined that referral is appropriate following medical and vocational assessments, consultation with the client, and completion of an application packet.
- B. As a part of referral each client shall complete an application on a form prescribed by the BEP which shall include the following:
 1. Identifying information including name, address, telephone number and date of birth.
 2. Medical information including visual acuity and diagnosis.
 3. Education and work experience.
 4. Mobility and communication functioning levels.
- C. The counselor shall attach the following to the application if applicable:
 1. Vocational assessments.
 2. Psychological evaluation.
- D. The counselor shall also determine and document that the client is
 1. Legally blind,
 2. At least 18 years old,
 3. A citizen of the United States,
 4. Able to function independently in business to the degree that the client’s needs have been addressed by VR,
 5. Medically stable with all necessary physical restoration services completed.
- E. BEP shall review application packets for completeness and shall return incomplete packets to VR.
- F. Completed packets shall be referred to the screening committee.

Historical Note

Former Section R6-4-303 renumbered to R6-4-403, new R6-4-303 adopted effective May 7, 1990 (Supp. 90-2).

R6-4-304. Screening for acceptance into initial training

- A. The screening of a candidate shall be conducted by a committee which shall consist of:
 1. Two voting BEP staff members.
 2. Two voting BEP operators appointed by the chairman of the Arizona Participating Operators’ Committee (APOC).
 3. The BEP supervisor shall act as the chairman of the committee. He shall vote only in the event of a tie. The committee chairman shall consult with the chairman of APOC before casting his vote.
 4. The referring vocational rehabilitation counselor, who shall have no vote.
- B. The screening shall consist of a review of the candidate’s case history and an interview with the candidate relating to voluntary participation in the BEP program and the candidate’s job qualifications. The committee shall then vote to accept into training, or reject the candidate and return to VR for further services as appropriate to assist the candidate in meeting the program criteria.

- C. The determination of the screening committee shall be provided to the candidate in writing. In the event of rejection the determination shall contain the reasons for the determination, recommendations for remedying any deficiencies, and provide notice of the right to appeal.

Historical Note

Former Section R6-4-304 renumbered to R6-4-404, new R6-4-304 adopted effective May 7, 1990 (Supp. 90-2).

R6-4-305. Initial training

- A. Once accepted into training, a candidate shall be trained for one or more of the three levels of business facility operations, beginning with level one. The course content, objectives and length of training shall be developed for each level by the BEP with the active participation of APOC. Only upon satisfactory completion of the level and granting of a certificate for that level shall the trainee be permitted to proceed to the next higher level.
- B. At level one, training shall cover business facilities, such as snack bars, vending banks, and gift shops at which food is not prepared, and shall orient the trainee to basic business and merchandising principles, the parameters of the BEP program, and the applicable provisions of federal regulations and state law. On-the-job training shall also be provided in existing business facilities of this type.
- C. At level two, training shall cover business facilities such as coffee shops at which limited food preparation occurs. On-the-job training shall be provided at appropriate, existing, level two facilities.
- D. At level three, training shall cover cafeterias providing a variety of prepared foods and beverages. On-the-job training shall be provided at appropriate, existing, level three facilities.
- E. With respect to completion of each level:
1. If a trainee misses five days or more of training without good cause whether consecutive or not, he shall be terminated. Good cause shall mean temporary illness of the trainee or family crisis.
 2. If, during training or following completion of any level of training, it becomes apparent that the trainee lacks sufficient skills, knowledge, experience, health or other abilities, the BEP shall review the case, consult with the counselor, APOC, and the trainee, and either:
 - a. Revise the training plan as needed; or
 - b. Terminate the training and return the trainee to VR for further services as appropriate.
 3. A trainee who satisfactorily completes a level of training shall be certified by the BEP. The term of the certificate shall be indefinite except as addressed in subsection (G).
- F. A determination to terminate shall be provided to the trainee in writing and shall state the reasons for the determination, recommendations for remedying any deficiencies, and notice of the right to appeal.
- G. Any trainee who is not placed in a business facility within 12 months of the date of certification shall receive appropriate training, following an evaluation of proficiency, in order to maintain certification.
- H. Operators licensed as of the date of the adoption of these rules shall be exempted from the initial training required for their current level of facility operation.

Historical Note

Former Section R6-4-305 renumbered to R6-4-405, new R6-4-305 adopted effective May 7, 1990 (Supp. 90-2).

R6-4-306. Remedial training

- A. When the BEP determines that remedial training is required to correct identified problems or deficiencies to assist a BEP

operator, it shall develop a specialized program with the active participation of APOC to address those concerns. The BEP operator may be placed on performance probation pursuant to R6-4-315 pending satisfactory completion of the remedial training.

- B. Any BEP operator who has surrendered his license for a period exceeding 12 months and wishes to return to the BEP shall be evaluated by the BEP, in consultation with APOC, to determine the level for which he shall be certified or any remedial training needed.

Historical Note

Adopted effective May 7, 1990 (Supp. 90-2).

R6-4-307. Upward mobility training

- A. At least once a year the BEP shall offer special training programs to BEP operators which shall be developed with the active participation of APOC and shall include education in new program developments or business and merchandising techniques and additional training to improve work performance.
- B. BEP shall offer training to operators for promotion opportunities pursuant to R6-4-305(A).

Historical Note

Adopted effective May 7, 1990 (Supp. 90-2).

R6-4-308. Qualifications for placement in a business facility

- A. When a business facility becomes available the BEP shall:
1. Notify each BEP operator and certified trainee in writing of the opportunity to request placement in a location by filing an application. The notice shall be mailed at least 15 calendar days prior to the announced closure of the filing period;
 2. Accept any timely filed written application which contains a statement of interest in placement in the facility.
- B. A qualifications committee shall consider each applicant's record on file with the BEP, together with the application and any supporting documents. The committee shall be comprised of:
1. Two voting BEP staff members.
 2. Two voting BEP operators appointed by the chairman of APOC.
 3. The BEP supervisor shall act as the chairman of the committee. He shall vote only in the event of a tie. The committee chairman shall consult with the chairman of APOC before casting his vote.
- C. Qualifications of a BEP operator or a certified trainee for placement in a business facility shall be determined based upon:
1. For a BEP operator:
 - a. Compliance with the BEP operator's agreement and with the provisions of this Article.
 - b. The existence of no more than two substantiated customer complaints during the prior six month period. Only written and signed complaints shall be considered.
 - c. Maintenance of a level of inventory adequate for the location in which the operator is currently placed.
 - d. Degree of profitability of a facility under the operator's management.
 - e. Involvement of the operator in training and seminars.
 - f. Attendance at the last all operators meeting.
 2. For a certified trainee: relevant knowledge, skill, training, prior experience or education, and the performance of the individual during training.

- D. The committee shall make its determination by majority vote within 30 calendar days from the closure of the filing period.
- E. Each applicant shall be notified by the BEP within seven calendar days of the committee's determination. For those applicants found disqualified, the notification shall be in writing and shall include the reasons for the disqualification, and notice of the right to appeal.

Historical Note

Adopted effective May 7, 1990 (Supp. 90-2).

R6-4-309. Selection for placement in a business facility

- A. Those BEP operators and certified trainees who qualify shall be considered for placement in a facility by a selection committee which shall consist of:
 1. Two voting BEP staff members.
 2. Two voting BEP operators appointed by the chairman of the Arizona Participating Operators' Committee (APOC).
 3. The BEP supervisor shall act as the chairman of the committee. He shall vote only in the event of a tie. The committee chairman shall consult with the chairman of APOC before casting his vote.
 4. The grantor, who may attend the meeting but shall not vote.
- B. Selection shall be based upon the applicant's qualifications as well as upon an interview with each candidate on factors related to the work including demonstrated management skills, ability to handle increased responsibilities, and any past comparable work experience. In addition, the committee shall consider applications in the following order from the highest priority for placement to the lowest:
 1. Any displaced operator who managed a business facility at a comparable level.
 2. Any BEP operator who is no longer on initial probation.
 3. Any BEP operator who is on initial probation.
 4. Any trainee certified for the level of the available facility.
- C. If no qualifying applicant can be recommended for placement, a temporary operator shall be placed by the BEP pursuant to R6-4-313.
- D. Applicants shall be notified of the decision by the BEP within seven calendar days of approval of the selection. Those applicants who have not been selected shall be notified in writing of the reasons for the rejection and notice of right to appeal.
- E. If the facility becomes available again within 30 calendar days of selection, or if the selected operator refuses the placement, the Supervisor of the BEP shall request another selection from the committee within the order of priority.

Historical Note

Adopted effective May 7, 1990 (Supp. 90-2).

R6-4-310. Refusal of placement in a facility

- A. Any BEP operator, certified trainee or displaced operator who applies and is selected for placement in a business facility and then refuses the placement without good cause shall not be considered for any new placement for 90 calendar days.
- B. For purposes of this Section good cause shall include temporary illness of the individual, family crisis, or a facility location that is inaccessible by public transportation.

Historical Note

Adopted effective May 7, 1990 (Supp. 90-2).

R6-4-311. Licensure

- A. A BEP business facility shall be operated only by a licensed BEP operator with the exception of a temporary operator pursuant to R6-4-313.
- B. Once a person is selected for placement in a business facility, a license shall be issued to that person by the Department which

shall remain in effect unless revoked or surrendered by the BEP operator. The license shall specify the name of the BEP operator, the level of the business facility for which the license is issued, issuance date, the signature of the authorized Department representative and contain a warning that the license shall not be transferred.

Historical Note

Adopted effective May 7, 1990 (Supp. 90-2).

R6-4-312. Operator's agreement

A standard operator's agreement shall be developed by the BEP in active participation with APOC. A new standard operator's agreement shall not be adopted before APOC has an opportunity to present the proposed agreement to the operators for input at an all operators meeting, following which additional discussions between BEP and APOC shall be conducted if needed. A BEP facility shall be operated only by a person who has executed an agreement for operation of a business facility with the Department.

Historical Note

Adopted effective May 7, 1990 (Supp. 90-2).

R6-4-313. Temporary operator

- A. A temporary Business Enterprise Program operator shall be recruited for placement in a business facility by the BEP, after consultation with the chairman of APOC, for a six-month period:
 1. When a facility is abandoned; or
 2. In the event no qualified legally blind person applies for assignment to a business facility; or
 3. In an emergency.
- B. The placement of a temporary operator may be extended on a monthly basis until such time as a qualified legally blind person is available.
- C. The BEP shall consider placement of a temporary operator in the following order from the highest priority to the lowest:
 1. A displaced operator who managed a business facility at a comparable level.
 2. A certified trainee for a comparable level who is not currently operating a business facility.
 3. An operator who is currently managing a business facility at a comparable level.
 4. A displaced operator who managed a business facility at a lower level.
 5. A certified trainee for a lower level who is not currently operating a business facility.
 6. A vocational rehabilitation client who is a legally blind person.
 7. A vocational rehabilitation client who is visually impaired.
 8. A vocational rehabilitation client with a disability other than visual.
 9. Any other person.

Historical Note

Adopted effective May 7, 1990 (Supp. 90-2).

R6-4-314. Initial probation

- A. A BEP operator who is placed in his first business facility or in a higher level business facility shall be placed on initial probation for six months to assure compliance with the operator's agreement, the provisions of this Article, and applicable law.
- B. During the probationary period, the BEP shall conduct unannounced onsite inspections at least twice monthly. Upon the inspector's arrival, the operator shall be notified.
- C. At the conclusion of each site inspection, a facility inspection report shall be completed which identifies the conditions found, any deficiencies requiring corrective action, and which

contains a statement of the required standard and any recommendation to bring the operator into compliance. The inspection report shall be read to the operator who, after signing the report, shall receive a copy.

- D. At the end of the six-month period, the BEP, following consultation with APOC, shall notify the operator in writing of either satisfactory completion of probation, of placement on performance probation or termination of the operator's agreement.

Historical Note

Adopted effective May 7, 1990 (Supp. 90-2).

R6-4-315. Performance probation

- A. When the operation of a business facility is adversely affected by the deteriorated performance of the BEP operator, the operator shall be placed on performance probation by the BEP, following prior notification to the APOC chairman, for no longer than six months.
- B. Deficiencies shall be identified as follows:
1. By a substantiated, written and signed complaint from any member of the public which has been filed with the Department; or
 2. By the BEP during onsite inspections.
- C. An operator shall be given written notice of placement on performance probation by certified mail, return receipt requested, or in person. The notice shall state the grounds for the action and shall refer to any applicable agreement sections or legal provisions. It shall identify the corrective action to be taken, the length of the probation, the consequences of failure to timely complete the corrective action, and notice of right to appeal.
- D. At the end of the performance probation period:
1. If the required corrective actions have been taken by the BEP operator, written notice of satisfactory completion and lifting of probation shall be immediately issued by the Department;
 2. If the required corrective actions have not been taken by the BEP operator, the Department, following notification to the APOC chairman, shall terminate the operator's agreement.

Historical Note

Adopted effective May 7, 1990 (Supp. 90-2).

R6-4-316. Continuing inspections of business facilities

The Department shall conduct inspections for the health, safety and welfare of the public, with or without notice, throughout the existence of an operator's agreement, and shall take any appropriate action to assure the operator's compliance with the operator's agreement, this Article, and applicable law.

Historical Note

Adopted effective May 7, 1990 (Supp. 90-2).

R6-4-317. Exchange of business facilities prohibited

There shall be no exchange of business facilities between BEP operators. Any placement in a facility shall be made pursuant to this Article.

Historical Note

Adopted effective May 7, 1990 (Supp. 90-2).

R6-4-318. Termination of operator's agreement

- A. An agreement for operation of a business facility shall be terminated:
1. Under the terms of the agreement,
 2. By failure to meet conditions of initial or performance probation,
 3. Upon revocation or surrender of a license,
 4. Upon termination of the grantor agreement,

5. When the BEP operator abandons the facility.

- B. The BEP operator shall be given written notice by the BEP, following notification to the APOC chairman, of termination of the operator's agreement. The notice shall be by certified mail, return receipt requested, or in person and shall state the grounds for the action, refer to any applicable provision of law or agreement, and advise the operator of the right to appeal.
- C. Upon termination of an operator's agreement, the BEP shall reconcile all records and inventoried items for which the operator was responsible. The report of the reconciliation shall be transmitted in writing to the BEP operator or his estate within 90 calendar days from termination of the operator's agreement and shall include notice of the right to appeal.
- D. Termination of the agreement shall not relieve the operator of any business obligations existing as of that date.

Historical Note

Adopted effective May 7, 1990 (Supp. 90-2).

R6-4-319. Revocation of license

- A. The following shall be grounds for the revocation of a BEP operator's license:
1. The operator is not in compliance with the requirements of this Article, contractual agreements or any applicable federal or state statute or rule.
 2. There is a deliberate material misrepresentation to the Department by the operator relating to the BEP.
 3. The operator uses alcoholic beverages or illegal drugs while engaged in the operation of the business facility or operates the business facility while under their influence.
 4. The operator neglects or refuses to timely provide information, including reports, and to timely transmit assessments required by this Article.
 5. The operator abandons the business facility or fails without just cause to open the facility for business at the scheduled hours without prior notice to the BEP.
 6. The operator is convicted of a felony while participating in the program.
 7. The operator no longer meets the qualifications for participation in the BEP due to:
 - a. Improvement of vision to the degree that he is no longer a legally blind person,
 - b. Change of citizenship from the United States,
 - c. Inability to meet the physical or emotional demands of operating a business facility following evaluation by the BEP.
- B. The BEP operator shall be given written notice, following notification to the APOC chairman, of the Department's revocation by certified mail, return receipt requested, or in person. The notice shall state the grounds for the action and shall refer to any applicable provision of law, rule or agreement, and it shall advise the operator of the right to appeal.
- C. The revocation of an operator's license shall not relieve the operator of any business obligations existing as of that date.

Historical Note

Adopted effective May 7, 1990 (Supp. 90-2).

R6-4-320. State committee of blind vendors

- A. In Arizona, the Arizona Participating Operators Committee (APOC) shall be the state committee of blind vendors which shall actively participate in the Business Enterprise Program as provided below and elsewhere in this Article.
- B. APOC shall enact bylaws consistent with this Article and any applicable regulatory or statutory provisions and provide BEP with a copy.
- C. In fulfilling its ultimate responsibility for the administration and operation of all aspects of the Business Enterprise Pro-

gram, the Department shall assure that APOC shall actively participate in the BEP through the following:

1. The rulemaking procedures outlined in A.R.S. § 41-1001 and following.
2. The receipt and transmittal to the BEP of grievances filed in writing with APOC at the request of BEP operators, and at the discretion of the BEP operator, the appearance of a member of APOC as his representative at any hearing within the Department pursuant to this Article.
3. The review, consideration and involvement in the program's decision making through membership on committees established by this Article.
4. By working with the BEP to establish training curricula and by serving as lecturers, faculty members, or in other roles at such training.
5. In addition, the BEP shall consult with APOC when advice and counsel may be of assistance to the program and Arizona's BEP operators.

Historical Note

Adopted effective May 7, 1990 (Supp. 90-2).

R6-4-321. Assessment against net proceeds of operators

- A. The BEP shall set aside funds from the net proceeds of the operation of a business facility based on a monthly assessment schedule determined after consultation with APOC and approved by the Secretary of the U.S. Department of Education. The currently approved monthly assessment schedule is:

Net Proceeds	Assessment Schedule
First \$400	2%
\$401-\$500	\$8.00 plus 5%
\$501-\$600	\$13.00 plus 10%
\$601-\$700	\$23.00 plus 15%
\$701 and over	\$38.00 plus 20%

- B. The funds set aside from the operator's monthly assessment shall be used only for the purposes stated in 34 CFR 395.9(b) (July 1, 1988), incorporated by reference and on file with the Office of the Secretary of State.

Historical Note

Adopted effective May 7, 1990 (Supp. 90-2).

R6-4-322. Guaranteed fair minimum of return

- A. A guaranteed fair minimum of return shall be granted to a BEP operator by the BEP if the net proceeds over three consecutive months average less than the prevailing federal minimum wage and if the reason for the low net proceeds is beyond the control of the operator as determined by the BEP, following consultation with APOC. The need for a guaranteed fair minimum of return may be reflected in the monthly operator's report pursuant to R6-4-324(B) or may be requested by the BEP operator.
- B. The BEP shall notify the BEP operator of approval or denial of the request for a fair minimum of return within 15 calendar days of the operator's request.
- C. Any denial by the BEP of a guaranteed fair minimum of return to a BEP operator shall be reduced to writing and issued by certified mail, return receipt requested, or in person and shall include the reasons for the determination and notice of the right to appeal.

Historical Note

Adopted effective May 7, 1990 (Supp. 90-2).

R6-4-323. Distribution and use of federal unassigned vending machine income

Federal unassigned vending machine income shall be used for BEP operator benefits as determined by a majority vote of all BEP operators in the state at an all operator's meeting, and as limited by 34 CFR 395.8 (July 1, 1988), incorporated by reference and on file with the Office of the Secretary of State. Any federal unassigned vending machine income not necessary for such purposes shall be used by the BEP for the maintenance and replacement of equipment, the purchase of new equipment, management services, and assuring a fair minimum of return to vendors.

Historical Note

Adopted effective May 7, 1990 (Supp. 90-2).

R6-4-324. Reports and recordkeeping; access to information

- A. The BEP operator shall maintain financial records of all operations in accordance with generally accepted accounting principles. These records shall be available for inspection by the Department and shall be retained by the operator at least five years unless involved in an audit by the Department. In case of an audit the records shall be retained until the audit is closed and any appeals finalized.
- B. Each BEP operator shall submit to the Department a monthly operator's report by the date posted on the monthly billing statement issued by BEP to each operator. The operator's report shall be on a form prescribed by the Department, in consultation with APOC, and shall include the following information:
1. Gross sales which shall include the total of all sales of goods plus vending machine income.
 2. Allowable business expenses.
 3. Net profit.
 4. Amount of monthly assessment.
- C. Monthly assessments which are due and owing to the Department shall accompany the monthly operator's report in the form of a personal check if an insufficient funds check has not been submitted in the preceding 12 months, otherwise by certified check or money order.
- D. Each BEP operator shall submit to the Department an annual inventory report which shall be on a form prescribed by the Department.
- E. Each BEP operator shall furnish copies of any records and accounts pertaining to the operation of a business facility requested by the Department.

Historical Note

Adopted effective May 7, 1990 (Supp. 90-2).

R6-4-325. Appeals

- A. A BEP candidate, trainee, or operator adversely affected by any decision made by the BEP shall have recourse to an administrative review and fair hearing pursuant to R6-4-404 except that, for a BEP candidate or trainee, the decision of a hearing officer may be reviewed by the Department in accordance with 34 CFR 361.48(c)(2)(iv) (July 1, 1988), incorporated by reference and on file with the Office of the Secretary of State. The decision of the hearing officer shall be final 20 days from the mailing of the hearing officer's decision if no further action is taken by the Department. For a BEP candidate or trainee, a final decision may be appealed through judicial review pursuant to A.R.S. § 12-901 et seq.
- B. A final decision of the Department may be appealed by a BEP operator either through judicial review pursuant to A.R.S. § 12-901 et seq. or through the Secretary of the U.S. Department of Education pursuant to 34 CFR 395.13 (July 1, 1988), incor-

porated by reference and on file with the Office of the Secretary of State.

Historical Note

Adopted effective May 7, 1990 (Supp. 90-2).

ARTICLE 4. OTHER RULES AND PROVISIONS THAT RELATE TO PROVIDING SERVICES TO INDIVIDUALS

This Article contains the rules related to the provision of services to individuals under the state/federal Vocational Rehabilitation program but are more general in scope than Article 2.

R6-4-401. Order of selection

- A. The order of selection is an organized, equitable method for serving selected groups of handicapped individuals in their order of priority if all eligible individuals who apply cannot be served.
- B. The state agency shall maintain the following order of selection:
 1. The severely handicapped (as defined by R.S.A. Chapter 3005.00, Statistical Reporting System);
 2. The disabled public assistance recipients;
 3. The deaf-blind. This target group population is comprised of those handicapped individuals who are:
 - a. Visually impaired within the definition used by SBS for eligibility for Vocational Rehabilitation services;
 - b. Deaf to the extent that the individual is not able to hear normal speech with or without amplification or not expected to be able to do so in the near future as a result of a progressive disease process; and
 - c. Who need services not available traditionally in programs serving either one or the other of disability groups alone.
 4. The developmentally disabled.
 - a. The term “developmental disability” means a disability of a person which:
 - i. Is attributable to mental retardation, cerebral palsy, epilepsy or autism;
 - ii. Is attributable to any other condition of a person found to be closely related to mental retardation because such condition results in similar impairment of general intellectual functioning or adaptive behavior to that of mentally retarded persons or requires treatment and services similar to those required for such persons; or
 - iii. Is attributable to dyslexia resulting from a disability described in subsection (B)(4)(a)(i) or (ii);
 - b. Originates before such person attains age 18;
 - c. Has continued or can be expected to continue indefinitely; and
 - d. Constitutes a substantial handicap to such person’s ability to function normally in society.
 5. All other eligible vocationally handicapped individuals with the state.

Historical Note

Adopted effective June 14, 1977 (Supp. 77-3). Renumbered from R6-4-301 effective May 7, 1990 (Supp. 90-2).

R6-4-402. Service and provider standards, service authorizations, equipment purchasing, Workers’ Compensation

- A. Provider standards
 1. Providers of medical diagnostic and restorative services must, as a minimum, meet the following definitions:

- a. “Dentist.” Dentist means a person licensed to practice dentistry or dental surgery under Chapter 11, Title 32 of the Arizona Revised Statutes.
- b. “Dispensing optician.” Dispensing optician means any person who is licensed under Chapter 15, Title 32 of the Arizona Revised Statutes to dispense lenses, contact lenses, frames, artificial eyes, optical devices, appurtenances thereto or parts thereof to the intended wearer on written prescription from a duly licensed physician or optometrist.
- c. “Occupational therapist.” Occupational therapist means a person who is a graduate of an occupational therapy curriculum accredited jointly by the Council on Medical Education of the American Medical Association and the American Occupational Therapy Association or has two years of appropriate experience as an occupational therapist and has achieved a satisfactory grade on a proficiency examination approved by the Secretary except that such determination of proficiency shall not apply with respect to persons initially licensed by a state or seeking initial qualifications as an occupational therapist after December 21, 1977.
- d. “Optometrist.” Optometrist means a person who is licensed to practice optometry under Chapter 16, Title 32 of the Arizona Revised Statutes.
- e. “Orthotist and/or prosthetist.” Orthotist and/or prosthetist means a person who is certified by the American Board for Certification for Orthotics and Prosthetics, Inc.
- f. “Physical therapist.” Physical therapist means a person registered to practice physical therapy under Chapter 19, Title 32, Arizona Revised Statutes.
- g. “Physician.” Physician means a person licensed under Chapter 13 or 17, Title 32, Arizona Revised Statutes.
- h. “Physician specialist.” For purposes of this program, a specialist is a licensed physician who limits his practice to specialization and who:
 - i. Is a diplomat of the appropriate American or Osteopathic Board; or
 - ii. Is a fellow of the appropriate American Specialty College or a member of an Osteopathic Specialty College; or
 - iii. Has been notified of admissibility to examination by the appropriate American Board or Osteopathic Board or has evidence of completion of an appropriate qualifying residency approved by the American Medical Association or American Osteopathic Association and has not lost his eligibility; or
 - iv. Holds a staff appointment on July 1, 1976, with specialty privileges in a hospital accredited by the Joint Commission of Accreditation of Hospitals or by the American Osteopathic Association.
- i. “Podiatrist.” Podiatrist means a person licensed to practice podiatry under Chapter 7, Title 32, Arizona Revised Statutes.
- j. “Respiratory therapist.” Respiratory therapist means a person who is a graduate of an American Medical Association approved respiratory care education and training program and who has been registered by the American Registry of Inhalation Therapist, Inc., following successful completion of the American Registered Inhalation Therapist Examination.

Department of Economic Security – Rehabilitation Services

- k. “Speech therapist or audiologist.” Speech therapist means a person who has been granted the Certificate of Clinical Competence in the American Speech and Hearing Association, or who has completed the equivalent educational requirements and work experience required for such a certificate, or who has completed the academic program or is in the process of accumulating the supervised work experience required for such a certificate.
- 2. Psychological services for VR are to be provided only by qualified psychologists, as described below:
 - a. A certified psychologist who holds a current certificate for the practice of psychology issued by the Arizona State Board of Psychologist Examiners and who has the necessary skills to provide diagnosis and treatment of mental or emotional disorders; or
 - b. A noncertified associate psychologist who has as a minimum a master’s degree in psychology, clinical psychology, counseling psychology, or educational psychology from an approved psychology training program at an accredited college or university, and the necessary skills to provide diagnosis and treatment of mental or emotional disorders, and is professionally supervised by a certified psychologist and who assumes professional responsibility and accountability for the psychological services of his staff. The supervising psychologist shall review the referral information to assist in the selection of appropriate diagnostic or treatment methods, be available for case consultation during evaluation or treatment sessions, participate in data interpretation and report development and review and co-sign evaluation or treatment reports.
- 3. Standards for providers of training or education:
 - a. Private business, vocational or technical schools. Those schools that are licensed in accordance with A.R.S. § 15-931 and provide printed curricula and fees.
 - b. Tutors. VR counselors shall use tutors, for fee, only when such individuals have demonstrated competence and/or training in the area of service being purchased.
 - c. OJT. On-the-job training shall be purchased in accordance with the instructions in R6-4-206(C)(8) through (14).
 - d. Orientation and mobility specialist. Bachelor’s or master’s degree in orientation and mobility. AAWB provisional or permanent orientation and mobility certification within six months of employment.
 - e. Rehabilitation teacher. One year of experience in rehabilitation teaching or related instruction of the handicapped or a master’s degree in rehabilitation teaching, special education or related. AAWB provisional or permanent rehabilitation teaching certification within six months of employment. In the case of services to children, a special education certificate in the area of visually handicapped and/or deaf/blind or a special education certificate and a minimum of one year’s experience.
 - f. Rehabilitation facilities. By 1980, all facilities utilized by VR shall be accredited, or in the process of applying for accreditation, by CARF, NAC, or other recognized accrediting bodies.
- 4. Interpreters for the deaf must be certifiable by the Registry of Interpreters for the Deaf whenever possible.
- B. Service standards and service descriptions.**
 - 1. Medical.
 - a. Medical consultation may be provided only by a person currently licensed by the state as “physician.”
 - b. The provider of restoration services shall:
 - i. Submit a report outlining the problem, what restoration services are necessary and time-frames in which such will be accomplished.
 - ii. Submit a written report to justify any services that may be required beyond 90 days.
 - iii. Advise counselor of all extra procedures required but not included in the original authorization.
 - iv. Advise counselor of costs and all changes in costs.
 - v. Provide billings promptly.
 - c. Ancillary services. All medical and related health services must be prescribed by, or under the formal supervision of, persons licensed to prescribe or supervise the provision of such services in the state.
 - i. Physical therapy shall provide information regarding range of motion, strength, coordination and physical tolerance. It can also recommend whether an existing orthopedic condition is stable and make recommendations for further treatment. The knowledge gained can be expressed in functional terms which is directly related to the client’s vocational planning. The therapy aspect is designed to assist the individual in reaching his maximum functional level through various treatment modalities such as hydrotherapy, electrotherapy and coordinated exercises.
 - ii. Occupational therapy shall involve a determination of the client’s level of independent living skills relating to self-care activities, homemaking activities, and ability to utilize transportation. Additionally, evaluation of upper-extremity function and perceptual skills are included. The OT evaluation also determines the suitability of the client’s home in terms of architectural features and determine the need for modifications, if appropriate, as well as the need for special equipment such as splints, upper-extremity prosthesis and assistive devices.
 - iii. Rehabilitation nursing shall provide screening to detect possible health problems, identifies possible accident-prone clients, detects poor hygiene, possible substance abuse, behavioral and attitudinal factors and need for additional medical evaluations. The evaluation identifies the vocational significance of these factors and also indicates the manner in which the presence of certain factors might affect the evaluative findings of other services of the facility. The therapeutic aspect of Rehabilitation Nursing is expressed by its role of consultant to other members of the rehabilitation team.
 - d. Speech therapy shall identify disorders of voice, articulation, language or fluency along with the vocational significance of various disorders. Treatment consists of individual and group therapy to correct the diagnosed disorder.
 - e. Audiological services shall be utilized to determine the existence of hearing difficulties and to develop a plan to manage the deficiencies. The evaluation

- determines the nature of the hearing loss and its vocational significance. The treatment program might include auditory training, lip reading and counseling regarding the use of a hearing aid.
- f. Interpreter services shall involve the provision of an interpreter who is certifiable by the Registry of Interpreters for the Deaf to assist the deaf person in communication with hearing people. Interpreting services are necessary if the deaf individual is to have access to, and benefit from, those services and resources available to clients in the rehabilitation process. Specifically, the interpreter must be capable of interpreting speech for the deaf individual and reverse interpreting; i.e., manual communication into speech at the level and speed at which the deaf person communicates.
2. Psychological services.
- a. Psychological evaluation for the VR program requires the administration, scoring and interpretation of psychological tests which measure intelligence, personality, achievement, aptitudes, interests and other clinically significant psychological attributes of clients. The psychologist must provide reports of findings to VR counselors, including diagnosis of mental or emotional disorders, if present, and recommendations for appropriate counseling, treatment or training strategies which may render the individual more employable.
- b. Consultation shall be related to the psychological aspects of individual cases so as to establish whether a psychological disability is adequately documented by the available evidence; to provide certification of severely disabled status; to assess all psychologically related needs of an individual in a VR program; to recommend appropriate restorative services. All case records reviewed will be annotated and reviews will be coordinated with medical consultants, where appropriate. Consultation can only be provided by a certified psychologist.
- c. Mental restoration services. The provider of mental restoration services shall:
- i. Submit a report outlining the problem, proposed services and therapy goals and timeframes in which such will be accomplished.
- ii. Submit regular progress reports to the VR counselor.
- iii. Advise counselor of all changes in therapy goals or changes in timeframes.
- iv. Advise counselor of costs and all changes in costs.
- v. Provide billings for services performed promptly.
3. Vocational evaluation shall be a comprehensive process that systematically utilizes real or simulated work as a means of determining an individual's present work ability and predicting his work potential. The process is based upon a review and consideration of all data relating to the client, including medical, psychological, social, vocational, cultural, education and economic as well as objective data obtained by assessment of the client. The process will include as appropriate for the client, paper and pencil tests, work samples, situational assessment on job stations and on the job tryout. The evaluation will generate a report to the referring VR or SRBVI counselor which will provide the counselor with an understanding of the client's capabilities and limitations as they relate to work, will provide a basis for vocational exploration and will enable the counselor to identify vocational goals which are suitable to the client's interests, aptitudes, and physical and mental capabilities.
4. Training services.
- a. Work adjustment services shall be provided by rehabilitation facilities or sheltered workshops who have the resources, knowledge and accountability to provide this service. Work adjustment is a treatment/training process utilizing individual and/or group work or work-related activities. The goal of work adjustment is to assist clients in understanding the meaning, value and demands of work; to modify or develop positive attitudes toward work; to develop appropriate personal characteristics and behavior; and to develop the functional capacities necessary to reach an optimum level of vocational development. The facility will:
- i. Have prior authorization to provide services from the VR counselor;
- ii. Notify counselor of any changes in goals or timeframes;
- iii. Provide monthly progress reports including objective data relative to client movement towards the goals;
- iv. Provide billing promptly;
5. Pre-vocational adjustment shall be a work adjustment process especially designed to meet the needs of a specific target population; namely, physically or mentally disabled persons who have no known skills and who have never been employed. It is a process which is normally provided by a sheltered workshop and the goal is generally that of assisting the client to adjust to the workshop setting. Pre-vocational adjustment differs from work adjustment in that it focuses on habilitation rather than rehabilitation. Essentially, the same techniques will be utilized with modification as necessary to meet the special needs of the target group. The program must demonstrate objective client progress in development of behavior appropriate to a work setting and positive attitudes toward work. Facility responsibilities are the same as under work adjustment.
6. Personal adjustment.
- a. Personal and social adjustment as provided in a rehabilitation facility shall be a formalized training process designed to assist clients in resolving problems which may not be directly work related but which, nevertheless, must be resolved if the individual is to reach his optimum level vocationally or if he is to remain in employment over an extended period of time. Included are problems which, if not resolved, will eventually carry over into employment settings and result in marginal performance, excessive tardiness, absenteeism, or possibly termination. The program must demonstrate client progress in terms of greater independence and more effective functioning in a work setting as well as in all areas of the client's life.
- b. Other personal adjustment services. Personal adjustment may also include services which provide skills or techniques for the specific purpose of enabling the individual to compensate for the loss of a member of the body or the loss of a sensory function. Included may be the following: training in the use of artificial limbs, aids or appliances; remedial train-

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- ing; literacy training; lip reading; braille; orientation and mobility training and rehabilitation teaching.
 - c. Rehabilitation teaching. Rehabilitation teaching provides instruction and training in learning adaptive skills necessary because of visual problems and/or blindness. These skills include communications skills (such as braille, typing, handwriting); home management skills (such as food preparation and nutrition, adaptive sewing techniques, marketing and budgeting); personal management skills (such as clothing care and organization, laundering, identification and labeling, grooming and hygiene); adaptive recreational skills, adaptive home mechanics and use of tools; and basic orientation skills within the home to enable a person to be mobile in his home environment and the necessary case management.
 - d. Orientation and mobility. Orientation and mobility provides instruction in cane training to blind and visually impaired persons in learning how to travel from one part of their environment to another in a safe, efficient, graceful and independent manner. These services may include orientation to the physical environment, instruction in independent travel techniques and/or lessons in the use of the low vision aids.
 - e. Whether these services are provided by a facility or individuals, appropriate provider standards apply. The reporting responsibilities are the same as those stated under the paragraph dealing with work adjustment. Rehabilitation teaching, orientation and mobility services are described below.
7. OJT.
- a. When an OJT establishes an employer/employee relationship, all applicable wage and hour laws shall apply.
 - b. The employer must be willing to provide such a service under contract.
 - c. Employer must be willing to observe all wage laws as they pertain; e.g., minimum wage, exceptions to minimum wage, etc.
 - d. Must state precisely what training will be provided and how such will be accomplished.
 - e. Employer must agree on timeframes and must be willing to accept payment for training as agreed in the contract.
 - f. Must report monthly on client's progress and submit billings on a monthly basis.
- C. Authorizations for services purchased from vendors.
1. Contracts. Contracts for services may be negotiated between the counselor and vendor.
 - a. They should contain the following elements:
 - i. Identify the parties involved;
 - ii. The specific services being authorized;
 - iii. Beginning and ending dates;
 - iv. The manner in which services will be provided;
 - v. Any required ancillary services; e.g., tools and supplies, registration fees, etc.
 - vi. The provider of the service;
 - vii. Goal of service being provided;
 - viii. Costs involved broken down in units of a month or less;
 - ix. Signatures of VR counselor and vendor.
 - b. Contracts must be written for all training services (including OJT's).
 - c. Contracts are to be written and signed before services are authorized.
 - d. If client or other sources are being used to pay for part of the training, this must be so stated on the contract.
2. A written authorization of services shall be made simultaneously with or prior to the purchase of services and such authorization will be retained. A VR counselor who is permitted to make an oral authorization in an emergency shall promptly document such an authorization in the client's case record and confirm it in writing to the provider of the service.
- D. Fee schedules. Fees shall be based on:
1. The 1969 Relative Value Studies (unrevised) of the California Medical Association for medicine, surgery, radiology and pathology with the conversion factors set by Rehabilitation Services Bureau and available through state or local VR offices.
 2. ASA Relative Value Guide of 1974 with the conversion factors set by Rehabilitation Services Bureau and available through state or local VR offices.
 3. General medical examination to include a routine (chemical) urinalysis according to established fee schedule.
 4. Dental fee schedule is developed by Rehabilitation Services Bureau and available through state or local offices.
 5. Fee schedule for eye services is developed by Rehabilitation Services Bureau and available through state or local offices.
 6. Psychological evaluation fee structure. Three levels of psychological evaluation have been established and for each level there is a fee range in recognition of differences in usual and customary fees for similar services among psychologists in various areas of the state. The psychologist and the local VR counselor may wish to agree to a set fee, within the fee range, for each level of evaluation to avoid having to negotiate the fee for evaluating each client; even so, flexibility should be allowed so that the fee for a particular level of evaluation may be adjusted higher or lower, within the fee range, depending upon the complexity of a particular case. Fee ranges have been set by Rehabilitation Services Bureau and are available through the state office or local VR office. Levels of psychological evaluation and reporting. (If, in the psychologist's judgment, a lower level evaluation than requested will provide the requested information, the psychologist shall render the lower level evaluation without the VR counselor's approval and adjust the billing; however, if a higher level evaluation than requested will be necessary to adequately answer the referral questions, such evaluation must first be authorized by the VR counselor (a telephone call and a brief case discussion may accomplish this). If a VR counselor is in doubt as to which level of evaluation to obtain, advice may be sought from the VR supervisor and, where available, the VR psychological consultant.
- a. Minimal evaluation. Appropriate for individuals with a known history of mental or emotional impairment and prior psychological evaluation where an updating of the previous psychological information is desired (the psychologist's report will compare prior and current findings); also appropriate for individuals for whom only minimal information is needed.
 - b. Moderate evaluation. Appropriate for most individuals with no prior psychological evaluation or where prior evaluations are no longer applicable, and

where more than a minimal evaluation is needed; the psychologist's report will provide a fairly detailed picture of the individual's assets and liabilities in response to the referral questions.

- c. Comprehensive evaluation. Appropriate for individuals requiring a very extensive or specialized psychological evaluation to answer the referral questions, whether or not prior evaluations have been rendered; the psychologist's report will provide a very extensive description of the individual's assets and liabilities.
- 7. Mental restoration services. (Appointments missed without prior notification will be reimbursed at 1/2 the agreed-upon fee; however, no reimbursement will be provided for a missed appointment if, before such appointment, the psychologist and individual jointly reschedule the appointment.)
 - a. Individual or family therapy. The VR counselor and the psychologist will agree to a reasonable fee based on the psychologist's usual and customary fees, area of treatment specialization and length of treatment session.
 - b. Group therapy. The VR counselor and the psychologist will agree to a reasonable fee based on the psychologist's usual and customary fees, area of treatment specialization and length of treatment session.
- E. Purchase of equipment. All equipment purchases shall be made in conformance with A.R.S. § 41-730 and rules, regulations and policies established and published under its authority.
- F. Inventory of equipment. All equipment purchased shall be inventoried in accordance with policies established by state Department of Administration and the Department in conformance with A.R.S. § 41-729 and rules, regulations and policies established and published under this authority.
- G. Workmen's Compensation coverage for client's shall be provided in conformance to A.R.S. § 23-901 et seq.

Historical Note

Adopted effective June 14, 1977 (Supp. 77-3). Renumbered from R6-4-302 effective May 7, 1990 (Supp. 90-2).

R6-4-403. Economic need and similar benefits

A. Economic need criteria.

- 1. Economic need. The purpose of economic need criteria is to determine whether the client will contribute, in whole or in part, to the cost of those services for which an economic need test is required or not.
 - a. An economic need test shall be applied for the following services:
 - i. Physical and mental restoration services;
 - ii. Maintenance;
 - iii. Transportation for other than diagnostic purposes;
 - iv. Services to members of a handicapped individual's family necessary to the adjustment or rehabilitation of the handicapped individual;
 - v. Telecommunications, sensory and other technological aids and devices;
 - vi. Occupational licenses, tools, equipment and initial stocks (including livestock) and supplies (including training books and materials);
 - vii. Other goods and services which can reasonably be expected to benefit a handicapped individual in terms of his employability;

viii. Nondiagnostic services provided to a client in extended evaluation are subject to economic need criteria.

- b. No test of economic need shall be applied as a condition for furnishing the following vocational rehabilitation services:
 - i. Evaluation of rehabilitation potential; i.e., diagnostic and related services;
 - ii. Transportation for diagnostic purposes only;
 - iii. Counseling, guidance and referral;
 - iv. Interpreter services for the deaf;
 - v. Reader services, rehabilitation teaching services and orientation mobility services for the blind;
 - vi. Vocational and other training services (available similar benefits for higher education must be considered);
 - vii. Placement.
- c. No test of economic need will be applied for those services provided with SSI/SSDI special funds (see Section R6-4-601 and R6-4-602).
- 2. General considerations.
 - a. Eligibility requirements for VR services will be applied without regard to the economic status of the applicant.
 - b. All available client resources shall be utilized when providing services conditioned on economic need including all liquid assets (assets readily converted to cash by financial institutions limited to checking accounts, savings accounts, bonds, and securities) before considering economic need based on income.
 - c. A client may be allowed to reserve liquid assets (as defined in subsection (A)(2)(a)) up to \$2,500, but to reserve liquid assets, it must be documented that such a reserve is required for medical, health reasons or other disability related reasons; e.g., an individual without health insurance coverage but who is known to have or will have in the near future, substantial medical expenses. Counselor must exercise prudent judgment and must have prior supervisory approval before disallowing such assets.
 - d. All similar benefits and financial assistance programs must be explored and utilized (per instructions in Section R6-4-303(B)) including work study programs.
 - e. Economic need must be redetermined when a change in client's financial status occurs. The yearly annual review of progress will include a review of the client's financial status.
 - f. Economic need criteria will be applied to the family unit for a dependent minor. A minor is anyone under 18 years of age who is dependent on parents, legal guardian, other family member. When the minor and family are estranged, and family is not contributing substantially to his welfare, the minor may be considered as an independent adult.
 - g. Economic need criteria will also be applied to the family unit for those VR clients who are non-minors (adults) and who are currently being claimed as dependents for income tax purposes during the current tax year.
- 3. Income.
 - a. Income that must be counted is net wages after mandatory deductions such as income taxes, social security, taxes and mandatory retirement contributions.
 - b. Also counted as income are:

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- i. Financial assistance from family and friends including trust funds, alimony and inheritance;
 - ii. Welfare. ADC, GA, SSI;
 - iii. Compensation. VA disability, SSDI, Workmen's Compensation, U.I., retirement, insurance settlements, etc.;
 - iv. Interest, dividends and fees available or received;
 - v. Tribal or BIA assistance;
 - vi. Child support payments.
 - c. Any difference between similar benefits provided and actual cost of training or health maintenance must be considered as income, including but not limited to the following:
 - i. Hospital or health insurance;
 - ii. GI bill;
 - iii. VA rehabilitation;
 - iv. Educational grants;
 - v. Scholarships.
 4. The value of investment or income property owned by the client is considered in determining contributions to be made by the client to the costs of his rehabilitation services. Such are considered as assets and must be used to contribute to the cost of those rehabilitation services which are dependent on economic need. These cases will be handled on an individual basis. The counselor shall discuss them with supervisor and, as necessary, the District Program Manager.
 5. Method of applying the economic need determination to client's participation in the costs of the rehabilitation program:
 - a. See R6-4-206(D) for instructions on how to apply economic need criteria to the provision of maintenance services;
 - b. In making an economic need determination, all liquid assets will be applied to cost of services before considering client's contributions based on monthly income;
 - c. If client has income over 80% of the Arizona median income figures provided by Department of Economic Security for administration of Title XX, he shall contribute that portion towards the cost of services which have an economic need criteria. Every attempt must be made to have vendor agree to time payments for one-time purchases when client is able to contribute to only part of their costs.
 - d. Exceptions to the above require prior approval by the supervisor.
- B. Similar benefits.**
1. Similar benefits are those benefits provided under programs other than VR which, if available, are used to meet, in whole or in part, the cost of the same or similar VR service the Agency would otherwise provide.
 2. Use of similar benefits:
 - a. Services for which similar benefits must be considered and used, if available, are:
 - i. Physical and mental restoration services;
 - ii. Training, which includes:
 - (1) Colleges, Community/Junior;
 - (2) Vocational training in private or public schools.
 - iii. Maintenance;
 - iv. Occupational licenses, tools, equipment and initial stocks and supplies;
 - v. Transportation in connection with rehabilitation services (not for evaluation of rehabilitation potential);
 - vi. Telecommunications, sensory and other technological aids and devices;
 - vii. Interpreter and reader services;
 - viii. Rehabilitation teaching services and orientation/mobility services for the blind.
 - b. Similar benefits are not mandated for the following, but the counselor must make all efforts to acquire any similar benefits that may be available:
 - i. OJT's;
 - ii. Work adjustment;
 - iii. Remedial education;
 - iv. Evaluation of rehabilitation potential;
 - v. Counseling, guidance and referral;
 - vi. Books, tools and other training materials;
 - vii. Services to family members;
 - viii. Most employment services necessary to maintain handicapped client in suitable employment.
 - c. Similar benefits are to be utilized in all cases to the extent they are adequate, timely and do not interfere with achieving the rehabilitation objective of the individual.
 - d. An exception is made to the similar benefits review if such would cause significant delay in the provision of physical and mental restoration or maintenance services.
 - e. Although services to family members and post-employment services are not listed as requiring a similar benefits' review, a similar benefits' review is required for all those services provided in these two service categories which are listed elsewhere as requiring such.
 3. General considerations.
 - a. An individual is eligible for similar benefits when he is legally qualified to receive such service.
 - b. The counselor must give full consideration of all available similar benefits.
 - c. The counselor must use maximum effort to secure similar benefit for a rehabilitation service. This effort must be documented in the IWRP. Counselor also must use contracted services or services under cooperative agreements if such are available to the client.
 - d. An individual eligible for similar benefits must utilize such insofar as they are adequate and do not interfere with achieving the rehabilitation objective of the individual.

Historical Note

Adopted effective June 14, 1977 (Supp. 77-3). Renumbered from R6-4-303 effective May 7, 1990 (Supp. 90-2).

R6-4-404. Administrative review and fair hearings**A. General considerations.**

1. Pursuant to federal regulations (CFR 1361.46) the VR Agency shall provide for applicants or clients of Vocational Rehabilitation who are dissatisfied with any action with regard to the furnishing or denial of services, a chance to file a request for an administrative review and redetermination of that action. When the individual is dissatisfied with the finding of this administrative review, he shall be granted an opportunity for a hearing. All clients must be informed of this provision at the time they apply for services.

2. A dissatisfied client has a number of recourses which shall be explored before an administrative review or a hearing is necessary or recommended:
 - a. Clients shall first be encouraged to discuss problems with their counselor. It is a normal part of counseling that the client and counselor must from time-to-time confront issues not pleasant or agreeable to either. The counselor/client relationship must be preserved if at all possible, not to protect the agency but to preserve the necessary continuity and autonomy of that counseling relationship.
 - b. When it is clear to either counselor, client or supervisor that the client/counselor relationship has broken down or that disagreements are not solvable within the context of that relationship, several alternatives may be considered.
 - i. Assignment to different counselor if the problem is judged to be a conflict in personality or style of relating;
 - ii. Meeting of client with the counselor's immediate supervisor with or without counselor present to help clarify policy or programmatic issues. This may result in either the transferring of case to another counselor or renewed attempt to reestablish the original client/counselor relationship;
 - iii. For this type of informal review, it is often helpful for supervisor to request or bring in outside consultation to help clarify the issues or problems.
 - c. If, after all alternatives have been explored, and the client remains dissatisfied, he shall be reminded of the recourse he has for an administrative review and must be assisted in receiving the benefit of such a review. Courtesy, fairness and promptness must guide the counselor's or supervisor's actions. After it has been established that a review will be set up, the counselor or supervisor may not change a program of services or take any new action on the case regarding the issue(s) raised until such issues have been resolved, nor may an attempt be made to influence the direction of the review.
3. Administrative review.
 - a. An administrative review is instituted at the request (written or verbal) of a client or applicant who is dissatisfied with any action regarding the furnishing or denial of services. Other informal avenues are to be explored before an administrative review is instituted. Requests for review, if in writing, shall be filed in client's case and copy forwarded to District VR Program Manager.
 - b. An administrative review shall be set up and held at the district level by District VR Program Manager or SBS/VR Manager. The individual with whom the complaint is filed is responsible for making necessary arrangements or to see that such arrangements are made. The hearing shall be conducted at a reasonable time, date and place and adequate preliminary written notice shall be given.
 - c. Persons to be involved are:
 - i. Client who is requesting the review;
 - ii. District VR Program Manager or SBSVR Manager as representatives of the Bureau Chief;
 - iii. VR Counselor involved;
 - iv. If client is deaf or mute, an interpreter will be present;
 - v. If the client does not have an adequate "grasp" of the English language, then an interpreter must be provided.
 - d. Persons who may also be involved:
 - i. Client may request to have a representative present;
 - ii. Other specialists at the discretion of District VR Program Manager.
 - e. Review procedures:
 - i. Minutes of the meeting shall be taken which summarize the issues raised, facts presented and discussion (a verbatim transcript is not required). If decisions were made during the review, they are also to be recorded. A copy of such minutes must be kept in permanent record files.
 - ii. The counselor is asked first to summarize the problem and to present his position;
 - iii. The client is asked if he has any questions and then to present his views on the problem and his position. In turn, the counselor may ask him questions.
 - iv. Discussion may follow with each individual given a chance to make closing comments. The client should be allowed to speak last.
 - f. Client shall be advised that the Administrative Review is not a legal hearing but an attempt to resolve conflicts by clarifying the issues, reviewing decisions and deciding whether to uphold those decisions based on state and federal laws, rules, regulations and policies as they apply to the particular circumstances of the case. The Agency must give timely and adequate notice to the client of decisions reached. Decision will be made within ten working days following the review.
 - g. Any decisions must be made with due regard to client's rights. The district VR Program Manager must be able and willing to state to the client the reasons for decisions reached.
 - h. The District VR Program Manager must advise RSB of a pending review. Technical assistance will be provided on request.
 - i. The results of the meeting shall be recorded as well as the rationale for any decisions made. A copy of this is to be forwarded to Rehabilitation Services Bureau and original filed with the District VR Program Manager; client's lawyer or representative shall also be furnished a copy on request. Records shall include the issues raised and discussed by both sides, evidence used and proposed findings, decisions or opinions. Client's case file will contain the facts and findings of the review.
 - j. All those participating in the review shall be advised that confidential information is involved and confidentiality must be observed. If non-VR individuals are present, the client should be asked to sign an authorization for release of personal information before proceeding. Client consent should never be presumed. Medical or psychological data obtained from third party may not be released without express authorization from that party. All other rules of confidentiality contained in federal regulations must be observed.
 - k. If the client remains dissatisfied with the results of an administrative review, the client may request a hearing.

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1. The RSB Chief, as administrator of the single state agency, (per CFR 1361.46) acknowledges the Appeals Bureau under the Department's Deputy Director as his designee to represent him in hearings, reserving the right, however, under R6-4-304(C), reconsideration, to request a reconsideration of the hearing officer's decision by the Director.

B. Fair hearings.**1. Filing of appeal.**

- a. A request for a hearing shall be filed in writing with the Department or provider within fifteen calendar days after the mailing date of the decision letter.
 - b. Except as otherwise provided by Statute or by Department regulation, any appeal, application, request, notice, report, or other information or document submitted to the Department shall be considered received by and filed with the Department.
 - i. If transmitted via the United States Postal Service, or its successor, on the date it is mailed. The mailing date will be as follows:
 - (1) As shown by the postmark;
 - (2) In the absence of a postmark the postage meter mark of the envelope in which it is received;
 - (3) If not postmarked or postage meter marked, or if the mark is illegible, the date entered on the document as the date of completion.
 - ii. If transmitted by any means other than the United States Postal Service or its successor, on the date it is received by the Department.
 - iii. The submission of any appeal, application, request, notice, report, or other information or document not within the specified statutory or regulatory period shall be considered timely if it is established to the satisfaction of the Department that the delay in submission was due to Department error or misinformation, or to delay or other action of the United States Postal Service or its successor.
 - iv. Any notice, determination, decision, or other data mailed by the Department shall be considered as having been given to the addressee to whom it is directed on the date it is mailed to the addressee's last known address. The date mailed shall be presumed to be the date of the notice, determination, decision, or other date unless otherwise indicated by the facts. Computation of time shall be made in accordance with rule 6(a) of the rules of Civil Procedure, 16 A.R.S.
 - c. Benefits shall not be reduced or terminate prior to a hearing decision unless such is due to a subsequent change in household eligibility and/or another notice of adverse action is received and not timely appealed.
 - d. The local office or provider shall advise the client of any community legal services available and, when requested, shall assist in completing the hearing request.
- 2. Notice of hearing.**
- a. Hearings will be held at the local office or any other place mutually agreed upon by the hearing officer and appellant. They shall be scheduled not less than twenty, nor more than thirty, days from the date of filing of the request for hearing. The appellant shall

be given no less than 15 days notice of hearing except that the appellant may waive the notice period or request a delay.

- b. The notice of hearing shall inform the appellant of the date, time, and place of the hearing, the name of the hearing officer, the issues involved, and of his rights to: present his case in person or through a representative; examine and copy any documents in the Department's possession which pertain to the issue prior to the hearing; obtain assistance from the local office in preparing his case; and of his opportunity to make inquiry at the local office about the availability of community legal resources which could provide representation at the hearing.
 - c. Appellant, in lieu of a personal appearance, may submit a written statement, under oath or affirmation, setting forth the facts of the case provided that the statement is submitted to the Department prior to or at the time of the hearing. All parties shall be ready and present with all witnesses and documents at the time and place specified in the notice of hearing, and shall be prepared at such time to dispose of all issues and questions involved in the appeal.
 - d. The hearing officer may take such action for the proper disposition of an appeal as he deems necessary, and on his own motion, or at the request of any interested party upon a showing of good cause may continue the hearing to a future time or reopen a hearing before a decision is final to take additional evidence. If an interested party fails to appear at a scheduled hearing, the hearing officer may adjourn the hearing to a later date, or may make his decision upon the record, and such evidence as may be presented at the scheduled hearing. If within ten days of the scheduled hearing, appellant files a written application requesting reopening of the proceedings, and establishes good cause for failure to appear at the scheduled hearing, the hearing shall be rescheduled. Notice of the time, place, and purpose of any continued, reopened, or rescheduled hearing shall be given to all interested parties.
- 3. Pre-hearing summary.**
- a. A pre-hearing summary of the facts and grounds for the action taken shall be prepared and forwarded to the hearing officer no less than four days prior to the hearing.
 - b. The summary shall be provided to the appellant prior to the commencement of the hearing.
- 4. The hearing officer may subpoena any witnesses or documents requested by the Department or claimant to be present at the hearing. The request shall be in writing and shall state the name and address of the witness and the nature of his testimony. The nature of the witnesses testimony must be relevant to the issues of the hearing, otherwise the hearing officer may deny the request. The request for the issuance of a subpoena shall be made to give sufficient time, a minimum of three working days, prior to the hearing. A subpoena requiring the production of records and documents shall specifically describe them in detail and further set forth the name and address of the custodian thereof.**
- 5. Review of file.** In the presence of a Department representative, the appellant and/or his authorized representative shall be permitted to review, obtain, or copy any Department record necessary for the proper presentation of the case.

6. Conduct of the hearing.
 - a. Hearings shall be conducted in an orderly and dignified manner.
 - b. Hearings are opened, conducted and closed by the hearing officer who shall rule on the admissibility of evidence, and shall direct the order of proof. He shall have power to administer oaths and affirmations, take depositions, certify to official acts, and issue subpoenas to compel the attendance of witnesses; the production of books, papers, correspondence, memoranda, and other records he deems necessary as evidence in connection with a hearing.
 - c. Evidence not related to the issue shall not be allowed to become a part of the record.
 - d. The hearing officer may, on his own motion, or at the request of the appellant or Department representative, exclude witnesses from the hearing room.
 - e. The worker, supervisor, or other appropriate person may be designated Department representative for the hearing.
 - f. The appellant and Department representative may testify, present evidence, and cross-examine witnesses and present arguments.
 - g. The appellant may appear for himself or be represented by an attorney or any other person he designates.
 - h. A full and complete record shall be kept of all proceedings in connection with an appeal, and such records shall be open for inspection by any interested party. A transcript of the proceedings need not, however, be made unless it is required by the Director for further proceedings. When a transcript has been made for further proceedings, a copy shall be furnished without cost to each interested party.
7. Hearing decision.
 - a. The hearing decision shall be rendered exclusively on the evidence and testimony produced at the hearing and Department rules governing the issues in dispute.
 - b. The decision shall set forth the pertinent facts involved, the conclusions drawn from such facts, the sections of applicable law or rule, the decision and the reasons therefor. A copy of such decision, together with an explanation of the appeal rights, shall be delivered or mailed to each interested party and their attorneys of record not more than sixty days from the date of filing the request for appeal, unless the delay was caused by the appellant.
 - c. In those cases where the local office must take additional action as a result of a decision, such action must be taken immediately.
 - d. All decisions in favor of the appellant apply retroactively to the date of the action being appealed, or to the date the hearing officer specifically finds appropriate.
 - e. When a hearing decision upholds the proposed action of reducing, suspending, or terminating a grant, an overpayment is the result.
 - f. All hearing decisions will be made accessible to the public, subject to meeting the provision for safeguarding confidential information relating to the client.
 - g. Decision of the hearing officer will be the final decision of the Department unless a reconsideration is requested in accordance with Section I.
 - h. Pursuant to A.R.S. § 36-563(C), Bureau of Mental Retardation decisions shall become final upon issuance of an order of the Director.
8. Withdrawal of appeal.
 - a. An appeal may be withdrawn as follows:
 - i. Voluntary withdrawal. This may be accomplished by completing and signing the proper Department form, or by submitting a letter properly signed.
 - ii. Abandonment or involuntary withdrawal. This occurs when an appellant fails to appear at a scheduled hearing and within ten days thereof fails to request a rescheduled hearing, or fails to appear at a rescheduled hearing which he has requested. A hearing may not be considered abandoned if the claimant provides notification up to the time of the hearing that he is unable, due to good cause, to keep the appointment and that he still wishes a hearing.
- C. Reconsideration.
 1. An appellant, within ten calendar days after the decision was mailed or otherwise delivered to him, may request the Director to review the decision. (Exception, see R6-4-304(A)(3)(e)) The request shall be in writing and should set forth a statement of the grounds for review and may be filed personally or by mail.
 2. After receipt of the request, the Director shall:
 - a. Remand the case for rehearing, specifying the nature of any additional evidence required and/or issues to be considered, or
 - b. Decide the appeal on the record.
 3. The Director shall promptly adopt his decision which shall be the final decision of the Department. A copy of the decision, together with a statement specifying the rights for judicial review, shall be distributed to each interested party.

Historical Note

Adopted effective June 14, 1977 (Supp. 77-3). Amended effective June 9, 1978 (Supp. 78-3). Renumbered from R6-4-304 effective May 7, 1990 (Supp. 90-2).

R6-4-405. Confidentiality

- A. Definitions.
 1. "Client information." Client information, written or otherwise, includes all medical, psychological, social, personal, financial, vocational and evaluative information which Vocational Rehabilitation acquires in the VR process.
 2. "Informed consent of client." Informed consent is never presumed. A complete and signed authorization indicates "informed consent" in most cases. An authorization for release of information must include the following:
 - a. From whom the information is being requested;
 - b. The recipient of the information and his/her relationship to the client;
 - c. The type of information being requested;
 - d. The purpose for which information is being requested;
 - e. The duration for which client consent is being given;
 - f. An assurance, signed by the individual requesting the information, that information received will be treated as confidential and will not be used contrary to the expressed intent of the request.
 3. "Primary source information." All that information which Vocational Rehabilitation acquired through personal

- interaction with client and evaluations and reports done at counselor's request and written specifically for VR.
4. "Secondary source information." All that information which Vocational Rehabilitation acquired from other sources but not originally done for or intended for Vocational Rehabilitation use.
 5. "Direct administration of a client's rehabilitation program." Sharing information under the following circumstances constitutes sharing information in the direct administration of a rehabilitation program:
 - a. To assist in the diagnostic process; i.e., sharing existing medical and psychological information with other specialists on an as needed basis;
 - b. To develop an appropriate program of services; i.e., sharing such information as necessary or appropriate with rehabilitation facilities or other vendors who may become providers of rehabilitation services;
 - c. To search out and obtain similar benefit resources; i.e., sharing information with any similar benefit resource but only for the express purpose of determining eligibility for such similar benefits;
 - d. To ensure success of an IWRP (Program of Services); i.e., sharing information on a "need to know" basis with service providers and within the constraints of B.(below) to ensure the success of a Program of Services;
 - e. To assist the client in finding and obtaining or retaining employment; i.e., sharing such information with the (prospective) employer as is necessary to obtain, retain, or ensure suitable placement;
 - f. To provide continuity of services; i.e., sharing client information with other state VR personnel or between states as necessary to ensure continuity and consistency in Agency dealings with the individual.
 6. "Individualized Written Rehabilitation Program (IWRP)." That part of the individual client case file which contains the program of services and all basic understandings and assurances including client's consent to release of information in the administration of a rehabilitation program, and an assurance that otherwise client information will be held confidential.
 7. "Client's representative." In the context of this Section, "representative" is an individual, so designated by the client, who is competent to handle personal client information and will do so responsibly for the benefit of the client.
- B.** Sharing client information in direct administration of VR program. VR counselor may release client information of which we are either primary or secondary source (without separate written authorization) to other individuals or agencies in the direct administration of a client's rehabilitation program as long as only necessary information is shared and that in the counselor's judgment, recipient can and will handle information in confidential manner. Consent for this release is given by client when he signs an application for services (see IWRP).
- C.** Answering requests for client information from clients or other individuals:
1. Information of which VR is not the primary source is only released in direct administration of a client's rehabilitation program. Requestors should be asked to contact the original source for secondary source information in possession of VR.
 2. VR may release client information of which VR is primary source (other than under B. above) with client's informed written consent to only those other individuals or agencies who can give satisfactory assurance that information will be used only for the purpose for which it is provided, and that it will not be released to anyone else. In the adjudication of an individual's claim for Social Security or SSI benefits, Disability Certification Section has free access to primary source client information. VR counselors have free access to Disability Certification Section client information in the administration of a rehabilitation program.
 3. With informed written consent of the client, federal regulations allow release of information (besides the IWRP which does not require special consent) to the client or, as appropriate, his parent, guardian or other representative. This shall be done with extreme care and may only be authorized by the counselor. The counselor will not normally copy actual medical, psychological or social reports to give to client. Such may be provided to the client's representative with proper written authorizations from client. It is advised, however, that the counselor dictate letters explaining Vocational Rehabilitation involvements in a general way when such information is requested by the client. Copies of such letters are placed in client's case folder. Interpretations of technical psychological or medical data shall only be provided by the originator of the report.
 4. Client has a right to copies of his IWRP and shall be given such.
 5. With informed consent, information shall be made available for review (but not to be removed from client file or copies without subpoena) to such client, parent, guardian or other representative for purposes in connection with any proceeding or action for benefits or damage, including any proceeding or action against any public agency provided
 - a. That only such information as is relevant to the needs of the client shall be released, and
 - b. In the case of medical or psychological information, the knowledge of which may be harmful to the client, such information will be released to the parent, guardian or other representative of the client by the state agency or to the client by a physician or by a licensed or certified psychologist. The psychologist or medical VR consultant or the examiner should be consulted to determine whether information may be harmful.
 6. Information shall be released to an organization or individual engaged in research only for purposes directly connected with the administration of the State Vocational Rehabilitation program and only if the organization or individual furnishes satisfactory assurance that the information will be used only for the purpose for which it is provided; that it will not be released to persons not connected with the study under consideration; and that the final product of the research will not reveal any information that may serve to identify any person about whom information has been obtained through the state agency without written consent of such person and the state agency.
 7. In any case, where client's informed consent is in doubt and/or when information may be damaging, such as during litigation with client as defendant, counselor is advised to not release personal client information even with a signed authorization for such release. In such an instance, the information may be subpoenaed.
 8. All client information released shall be stamped CONFIDENTIAL.

- D.** Vocational Rehabilitation requesting information on clients from others:
1. Information being requested must have direct relevance to establishing client's eligibility and to the success of client's rehabilitation program. Counselor must be selective in his approach to information gathering.
 2. Request for information must be as specific as possible (fulfill the criteria as set in R6-4-305(A)(2)).
- E.** Informing client about confidentiality.
1. The client shall be told at the beginning of his/her relationship with Vocational Rehabilitation that records will be held confidential but also that there are limits to that confidentiality; e.g., client files may be subpoenaed in whole or in part and contents used in court.
 2. The client shall also be told both at the beginning of relationship with counselor and any other time as necessary that:
 - a. The counselor must report any ongoing or future illegal activity to proper authorities, especially if it involves possible injury to other individuals or damage to property. That not doing so might make him/her legally accessories to the crime.
 - b. The counselor himself/herself may be subpoenaed and questioned in court in which case he must answer questions honestly and truthfully on the order of the judge.
 3. When counselor is aware that client may be or may become in violation of the law, the counselor must inform the client of this and the possible consequences.
 4. Counselor should know that counselor-client relationship is not protected by privileged communication laws in the same way that the doctor-patient, lawyer-client or clergyman-penitent relationship is.
- F.** Client files shall not contain information which the client does not want known beyond the client-counselor relationship. Moreover, if the client wants to reveal the details of an illegal act or source of information, the counselor should interrupt the client and advise him that he is interested only in the effects of such activity, not the act itself.
- G.** Client files must be kept in such a way that no unauthorized individual will have access to them. An unauthorized individual is anyone who is not directly connected with the administration of the rehabilitation program. All non-professional VR staff who have access to the client's records will be thoroughly briefed concerning the confidentiality standards to be observed.
- H.** When a client/applicant is involved in litigation and has an attorney, the rehabilitation counselor shall inform the client's attorney of Agency involvement and plans for providing services.
- I.** Subpoena of Vocational Rehabilitation counselor or client records.
1. Counselors receiving subpoenas must contact their supervisor and the Department's Legal Section immediately for assistance.
 2. To provide full protection of the counselor, any subsequent legal actions taken by the VR counselor shall be on instruction from Legal Section.
 3. Secondary source information such as medical or psychological data obtained from another agency shall not be released without advice from Legal Section even under subpoena. The counselor should explain that this information should be secured from the original source. SSA information shall never be released, even under subpoena 42 U.S.C. 1306(a).

- J.** All client information is the property of the Department and shall be used in conformance with the regulations and policies stated in this Section.

Historical Note

Adopted effective June 14, 1977 (Supp. 77-3). Renumbered from R6-4-305 effective May 7, 1990 (Supp. 90-2).

ARTICLE 5. RESERVED

ARTICLE 6. SIGHT CONSERVATION PROGRAM

R6-4-601. Definitions

For purposes of this Article, the following definitions shall apply:

1. "Department" means the Arizona Department of Economic Security.
2. "Dispensing optician" means a person who is licensed by the state of Arizona to dispense optical appliances pursuant to A.R.S. §§ 32-1681 through 32-1684.
3. "Eye examination" means a basic ophthalmological or optometric evaluation by an ophthalmologist or optometrist to determine or verify causation of visual loss and the level of visual function.
4. "Medical, optometric, and other eye care services" means a basic ophthalmological or optometric eye examination, interim treatment for visual conditions, and provision of eyeglasses, contact lenses, or other optical appliances for the correction of refractive errors.
5. "Ophthalmologist" means a physician licensed by the state of Arizona pursuant to A.R.S. §§ 32-1422 through 32-1426 or 32-1822 and certified by an approved specialty board in the field of ophthalmology.
6. "Optometrist" means a person licensed by the state of Arizona pursuant to A.R.S. §§ 32-1722 through 32-1725.
7. "Providers" means ophthalmologists, optometrists and dispensing opticians, who have contracted with the Sight Conservation Program to provide ophthalmologic or optometric eye examinations, or other eye care services to clients of the Program, or are employees of the Department in the Sight Conservation Program and provide direct eye care services to clients of the Program.
8. "Sight Conservation Program" or "Program" means a program administered by the Department pursuant to A.R.S. § 46-281 that provides medical, optometric and other eye care services, and which participates in public awareness programs and visual screening in an effort to prevent blindness.

Historical Note

Adopted effective June 14, 1977 (Supp. 77-3). Section repealed, new Section adopted effective October 22, 1991 (Supp. 91-4).

R6-4-602. Eligibility for Services

- A.** To be eligible for medical, optometric and other eye care services, an applicant shall:
1. Be at least 18 years old.
 2. Either:
 - a. Be enrolled in the Arizona Health Care Cost Containment System (AHCCCS) pursuant to 9 A.A.C. 22, Article 3 as documented by AHCCCS; or
 - b. Be receiving General Assistance, Aid to Families with Dependent Children, or Supplemental Security Income, as documented by the Department; and
 3. Not have received medical, optometric, or other eye care services from the Program within the past 24 months except under conditions established in R6-4-606(B).
- B.** For applicants who apply in person, an eligibility determination shall be made at the time of application and, for those

determined eligible, an appointment for services shall be scheduled. For those who apply other than in person and who are determined to be eligible, a notice of appointment for services shall be made either orally or in writing.

- C. Any determination of ineligibility shall be provided to the applicant in writing, directed to the address of record, and shall include the reason for the decision and notice of the right to appeal pursuant to R6-4-608.

Historical Note

Adopted effective June 14, 1977 (Supp. 77-3). Section repealed, new Section adopted effective October 22, 1991 (Supp. 91-4).

R6-4-603. Application for Services

- A. Any person meeting the criteria for eligibility established in R6-4-602 may apply for the Sight Conservation Program by telephone, mail, or in person, by providing the following information:
1. Name, address, telephone, Social Security number, and date of birth;
 2. Date, location, and name of provider of last eye examination;
 3. Type of public assistance, both federal and state, currently being received.
- B. Upon receipt of an application, the Program shall verify the information provided and determine eligibility. If the application is taken orally, the Program shall document the information on the applicant's behalf and verify and determine eligibility.

Historical Note

Adopted effective October 22, 1991 (Supp. 91-4).

R6-4-604. Eye Examination; Program Authorization

- A. An applicant determined eligible by the Program shall receive an eye examination from an authorized provider.
- B. The Department shall transmit an eye examination authorization form with client-identifying information to a provider.

Historical Note

Adopted effective October 22, 1991 (Supp. 91-4).

R6-4-605. Provider Reports; Program Authorization for other Eye Care Services

- A. The provider shall transmit a completed eye examination report to the Program for review and written authorization for provision of other eye care services, except as provided in subsection (B) of this rule.
- B. A provider when authorized by contract to provide eye examinations, and to fit and measure for eyeglasses pursuant to R6-4-606(C), shall provide these services prior to the transmittal of a completed eye examination report to the Program.
- C. Any denial by the Program of other eye care services shall be provided to the client in writing by the Program, directed to the client's address of record, and include both the reason for the decision and notice of the right to appeal pursuant to R6-4-608.

Historical Note

Adopted effective October 22, 1991 (Supp. 91-4).

R6-4-606. Provision of Services

- A. Once authorized, ophthalmological or optometric eye examinations and other eye care services shall be provided without charge either directly by the Program or by a contracted or authorized provider.

- B. No more than one eye examination and one pair of eyeglasses, contact lenses, or other optical appliances shall be provided to a client in any 24 consecutive months unless exceptional need exists as determined by the Program. In all circumstances in which services have been received with the 24-month period, the Program shall inquire into the existence of exceptional need. Exceptional need includes circumstances in which:

1. An individual either develops a new visual impairment, or an existing disease entity deteriorates causing visual changes which impair client's current level of independent functioning.
2. An individual's current level of independent functioning is jeopardized by loss of or damage to an optical appliance.

- C. As limited by subsection (B) of this rule, eyeglasses shall be provided when one of the following conditions exist:

1. Present eyeglasses are in poor condition.
2. An eye examination determines that distance or near visual acuity can be improved two lines on an eye chart in either eye regardless of the prescription.
3. An eye examination determines that there is at least a one diopter change or an axis change of 10 degrees or more.
4. Lesser changes than those provided in subsections (C)(2) and (3) will either reduce night blindness or will improve the ability to function independently as determined by the Program.

- D. As limited by subsection (B) of this rule, and in addition to the criteria provided in subsections (C)(2) and (3) of this rule, contact lenses may be provided when two or more of the following conditions exist:

1. Present contact lenses are in poor condition.
2. They provide better visual acuity than eyeglasses.
3. Medically related factors dictate their use.

- E. As limited by subsection (B) of this rule, optical appliances other than eyeglasses and contact lenses shall be provided when prescribed or recommended by the examining provider; however, the Program shall limit responsibility for costs for each optical appliance to an amount determined by the Program each year.

Historical Note

Adopted effective October 22, 1991 (Supp. 91-4).

R6-4-607. Public Awareness; Visual Screening

- A. The Program shall participate in seminars, symposiums, health fairs, and conferences related to eye conditions and diseases and to the prevention of blindness.
- B. Visual screening shall be conducted by the Program to identify individuals with potential visual problems in an effort to prevent blindness.

Historical Note

Adopted effective October 22, 1991 (Supp. 91-4).

R6-4-608. Appeals

Any applicant or client adversely impacted by a decision of the Program or a failure of the Program to act with reasonable promptness shall have recourse to an administrative review and hearing pursuant to the procedures contained in R6-4-404, except that the decision of the hearing officer shall be final 20 days from the mailing of the hearing officer's decision if no further action is taken by the Department.

Historical Note

Adopted effective October 22, 1991 (Supp. 91-4).

ARTICLE 7. EXPIRED

Article 7, consisting of R6-4-701 through R6-4-707, expired under A.R.S. § 41-1056(E) at 10 A.A.R. 1165, effective October 31, 2003 (Supp. 04-1).

R6-4-701. Expired**Historical Note**

Adopted effective June 14, 1977 (Supp. 77-3). Section expired under A.R.S. § 41-1056(E) at 10 A.A.R. 1165, effective October 31, 2003 (Supp. 04-1).

R6-4-702. Expired**Historical Note**

Adopted effective June 14, 1977 (Supp. 77-3). Amended effective October 13, 1978 (Supp. 78-5). Section expired under A.R.S. § 41-1056(E) at 10 A.A.R. 1165, effective October 31, 2003 (Supp. 04-1).

R6-4-703. Expired**Historical Note**

Adopted effective June 14, 1977 (Supp. 77-3). Section expired under A.R.S. § 41-1056(E) at 10 A.A.R. 1165, effective October 31, 2003 (Supp. 04-1).

R6-4-704. Repealed**Historical Note**

Adopted effective January 7, 1981 (Supp. 81-1).
Repealed effective May 7, 1990 (Supp. 90-2).

R6-4-705. Expired**Historical Note**

Adopted effective June 14, 1977 (Supp. 77-3). Section expired under A.R.S. § 41-1056(E) at 10 A.A.R. 1165, effective October 31, 2003 (Supp. 04-1).

R6-4-706. Repealed**Historical Note**

Adopted effective June 14, 1977 (Supp. 77-3). Former Section R6-4-706 repealed, new Section R6-4-706 adopted effective June 17, 1985 (Supp. 85-3). Repealed effective October 22, 1991 (Supp. 91-4).

R6-4-707. Expired**Historical Note**

Adopted effective June 14, 1977 (Supp. 77-3). Section expired under A.R.S. § 41-1056(E) at 10 A.A.R. 1165, effective October 31, 2003 (Supp. 04-1).

ARTICLE 8. EXPIRED

Article 8, consisting of R6-4-801, expired under A.R.S. § 41-1056(E) at 10 A.A.R. 1165, effective October 31, 2003 (Supp. 04-1).

R6-4-801. Expired**Historical Note**

Adopted effective June 14, 1977 (Supp. 77-3). Section expired under A.R.S. § 41-1056(E) at 10 A.A.R. 1165, effective October 31, 2003 (Supp. 04-1).